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Coming of Age in Alberta

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An overview of parents'
and children's rights
and responsibilities



THE PREMIER'S COUNCIL IN SUPPORT OF
ALBERTA FAMILIES



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Preface

Coming of Age in Alberta

An overview of parents'
and children's rights and
responsibilities

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Preface

The Premier's Council in Support of Alberta Families, in conjunction with the Justice Department, has reviewed the current laws of Alberta related to parents' and children's rights and responsibilities. This document is intended as an overview of legislation, not as a digest of each piece of legislation. Every effort has been made to accurately reflect current laws. References to relevant legislation are included in Appendix II to assist interested persons in pursuing further research, in any of the areas covered. Anyone using this document is reminded that it is provided for information and as a basis for further discussion. Original Acts should be consulted for all purposes of interpreting and applying the law.

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Introduction

The Premier's Council in Support of Alberta Families recently completed a consultation process with Albertans across the province. One of the areas of concern was related to the perception that the rights, and authority, of parents, in relation to their children, has eroded in recent years. In order to assess the level of protection offered to parents and children through legislation, the Council, in conjunction with the Justice Department, reviewed the current laws that are related to parents' and children's rights and responsibilities in Alberta.

The laws affecting a child's transition to adulthood, and the responsibilities of parents, are generally within either federal or provincial jurisdictions.¹ While municipal bylaws also have an impact on children, they have not been reviewed as part of this discussion, since municipal bylaws vary widely and have only limited scope.

The legislation relating to parents and children tends to be based on the following beliefs and principles, as outlined by Thomlinson and Foote² in 1987:

- The family is the basic unit of society and the most fundamental setting for the nurturing of and caring for children.
- As the best environment in which children can be raised (since the family is the best social structure for meeting the needs of children, and the potential of children is thereby best realized within the family), the family ought to bear the primary responsibility in society for the care and support of dependent minors.
- In return for this duty, the privacy of the family ought to be recognized and the integrity of the family supported.
- The state should intervene legally, to disrupt a family, on the basis of consent, or if involuntarily, only in exceptional circumstances.
- Society needs to provide some way of safeguarding the rights and entitlements of those who are not capable of doing so for themselves (such as children), and of protecting dependents who are at risk.
- Children have interests and needs as separate individuals, which may come into conflict with the needs of parents, other adults, and the state.

These principles assume that a child cannot act to safeguard his or her own best interests and that therefore, adults, usually parents, must act on their behalf.

On Becoming a Parent

Married Parents

In Alberta, if a child is born to a married couple, then the mother and the father are automatically the joint guardians of the child from birth.

Unmarried Parents

If the parents are not married at the time of the child's birth, the mother is always automatically a guardian of the child and the father is automatically a guardian jointly with the mother, if he meets any of the following criteria:

- he was married to the mother and the marriage was terminated by annulment or divorce 300 days or less before the birth of the child.
- he married the mother after the birth of the child and has acknowledged that he is the father of the child.
- he lived common-law with the mother for at least one year immediately before the birth of the child.

Declaration of Parentage

A legal process is available to obtain a declaration of parentage from the Court when it is necessary to determine who is legally the father or mother of a child. This makes it possible for the Courts to establish parentage where the facts do not support a presumption of parentage under the rules above; where the presumptions suggest that more than one person might be the father of the child; or where the child is the product of assisted reproduction technologies.

A person claiming to be the father, mother, or child of another person may apply to the Court for a declaration of parentage. The Court may grant a declaration of parentage, if it is satisfied that the alleged father or mother is the father or mother of the child. The child may apply for a declaration of parentage and for

maintenance from his or her parent(s) even though the child has not yet reached 18 years of age.

At the request of the person declared to be a parent, the Court may appoint the person as a guardian of the child jointly with any existing guardian or guardians, if it is in the best interests of the child, and if the parent is willing and able to assume the responsibilities of a guardian.

Adoption

Adoption is a legal and social process which establishes parent-child relationships, and provides permanence and security for children. Adoption is a legislated avenue for establishing legal family relationships. In Alberta, the channels for adoption include: adoptions through Child Welfare, private adoptions through an adoption agency, private adoptions by direct placement, spousal or step-parent adoptions, and international adoptions. Each is outlined briefly below. A list of brochures and pamphlets providing further information on adoptions in Alberta is included in Appendix IV.

Adoption Through Child Welfare

Some birth parents relinquish their child for adoption to the Department of Family and Social Services. If the child has been in the care of the biological parents for less than 6 months, the parent or parents may complete a permanent guardianship agreement with the Director of Child Welfare. The agreement transfers the care and custody of the child to Child Welfare, which may then proceed with an adoption placement. The birth father is contacted whenever possible and notified that he has ten days in which to establish his parentage of the child. He can support the birth mother's plan or proceed with legal action. A parent, after agreeing to relinquish the child, may wish to reverse this decision and have the child returned. The mother and the father, if he is a guardian, may revoke their consent (in writing) within 10 days of the agreement, and have the child returned.

A parent may also relinquish guardianship of a child to Child Welfare by applying (with the assistance of a child welfare worker) to Family Court for a Permanent Guardianship Order. The child may then be placed with prospective adoptive parents who have applied and been approved by the Department for adoption placement. The Director of Child Welfare files an Adoption Petition with the Court on behalf of the adoptive parents to finalize the adoption.

Private Adoption Through a Private Adoption Agency

Parents may also choose to go through a private agency. In this case the parent or parents would make a written agreement with the prospective adoptive parent or parents to transfer interim care and custody of the child from the birth parents to the prospective adoptive parents. The adoption agency would arrange for the necessary home study, Court documents, and consent from the parents for adoption. The adoption agency would then file the Adoption Petition with the Court on behalf of the adoptive parents.

Private Adoption by Direct Placement

A parent may also place the child for adoption with adoptive parents of their own choosing or with the help of others such as a physician or lawyer.

If the prospective adoptive parents plan to proceed with adoption, then both the birth parents and the prospective adoptive parents must notify the Director of Child Welfare of their intent within 30 days of the placement.

Child Welfare would then contact the birth parents to obtain their consent for the adoption, conduct a home study of the adoptive parents, and then file an Adoption Petition with the Court on behalf of the adoptive parents.

Step-Parent Adoptions

A frequent type of adoption in Alberta is the adoption of a child by the spouse of the child's parent, or the child's step-parent. This can be accomplished by applying for an adoption order through the Court. A self-help kit to assist in step-parent adoptions is available from the Queen's Printer.

The biological parents of the child must consent to the adoption of the child, if they are living and if they are guardians of the child. If the child is 12 years old or older, the child must also consent, unless the Court decides that it is in the best interests of the child to proceed with the adoption without the child's consent.

International Adoptions

International adoptions can be assisted through the Department of Family and Social Services, but the adoption and emigration procedures of the country of origin and residence of the child must be respected. The Canadian Immigration and Alberta Adoption rules apply.

Consent for Adoption

Guardian's Consent

The *Child Welfare Act* requires all guardians of a child to consent to the plan that the child be adopted, whether they go through Child Welfare or privately. If the parents of the child were not married at the time of the child's birth, the mother is automatically a guardian and the father will be automatically a guardian, if he meets the conditions outlined on page 2 regarding unmarried parents, or if the father has applied to the Court to establish parentage and has been appointed a joint guardian, with the mother. The rules regarding private adoption require the adoption agency or individual involved to attempt to notify the biological father of the proposed adoption. However, if the biological father is not automatically a guardian jointly with the mother, under the conditions outlined on page 2, and if he has not applied to become a guardian of the child, then it is not necessary to notify him of the proposed adoption or to obtain his consent.

If a child is under the guardianship of the Director of Child Welfare, under either a permanent guardianship agreement or a permanent guardianship order, then only the consent of the Director of Child Welfare is required for the child to be adopted.

Child's Consent

If the child is 12 years old or over, the child must consent to the adoption, unless the Court decides that it is in the best interests of the child to proceed without the child's consent.

Consent of Minor Parent

A mother or father who is under 18 years old, may consent or withhold consent for the adoption of his or her child, and the consent is as valid as if the mother or father had reached 18 years of age, the age of majority, if the parent is a guardian of the child. Any parent who has guardianship, including a sixteen year old mother or father, may surrender his or her child for adoption without the grandparents of the child being informed.

Reversal of Consent

A guardian can revoke the consent in writing within 10 days and have the child returned.

Effect of Adoption Order

Once an adoption has been made, the child is the child of the adopting parent and the adopting parent is the parent and guardian of the child as if the child had been born to that parent.

Post-Adoption Registry

Sometimes, an adult who was adopted as a child, or parents who consented to the child's adoption, wish to re-establish contact. In such instances, issues related to the privacy of the child, the adoptive parents, and the birth parents must be addressed.

To help people wishing to re-establish contact, Alberta Family and Social Services established a system whereby adult adoptees, adult birth siblings of adoptees, birth parents, and certain interested persons, such as grandparents and former adoptive parents, can register for direct contact. The system works entirely on a voluntary basis. Direct contact can only be established if two or more persons register their desire for contact with each other. All persons must be 18 years old or over to register.

The Department can also provide non-identifying social and medical histories to adoptees and family members and assist them in obtaining copies of the formal documents related to their adoption. They can also assist adoptees with documenting any rights to claim Indian status.

Registration of Birth, Parentage, Adoption, or Change of Name

Under the *Vital Statistics Act*, there is a requirement that the birth of every child born in Alberta be registered.

When the mother and father of the child are married, the child is registered as the child of both parents.

When the parents of the child are not married, the mother may register the child with her own surname, or, if the father of the child acknowledges paternity, under the father's surname. Both parents must acknowledge paternity in order for the father's identity to be included on the child's birth record.

If the parents of the child are living common-law, both parents must acknowledge paternity in order for the father to be recorded as the father of his child.

When a child is adopted, the child is registered as the child of the adoptive parents by adoption, and information about the birth parents is sealed.

Change of Name

If the parents are married, both parents must consent to a change in the child's name under the *Change of Name Act*. If the child is 12 years old or over, the child must also give consent for a change of name.

If a child is born to unmarried parents, and the parents subsequently marry, the child's registration may be amended, on request, to indicate that the child was born to married parents.

If a child is born to unmarried parents, the parent who has custody of the child may apply to change the child's given name, or to change the child's surname to the surname or proposed surname of the parent who has custody of that child.

If a child is born to unmarried parents, the parent who has custody of the child may apply to change the child's surname to the surname of his or her married or common-law spouse. If the spouse is not the biological parent of the child, the spouse must consent. The spouse must be of the opposite sex from the parent.

A mother who has custody of her child born out of wedlock and who is not living with the father of the child, may apply to change the surname of the child to the surname of the father, if the father has acknowledged during his life that he is the father of the child, or if the father has been declared by the Court to be the father of the child.

If the parents were married but the marriage was annulled, then the person who has custody of the child of the annulled marriage, may, with the consent of the former spouse, apply to change the given name or the surname of the child.

If the change of name is informal, and not registered under the *Change of Name Act*, and not done for fraudulent reasons, then a parent who is the guardian of the child, may change the child's name as the parent wishes.

The child's consent for a change of name is required if the child is 12 years old or older, regardless of the marital status of the child's parents.

Rights and Responsibilities of Parents

Guardianship

The most important of the rights and responsibilities of the parent is the guardianship of a child. The child must rely on adults for protection, guidance, and for the necessities of life and for the fulfilment of the child's emotional needs.⁴

Rights of Parent Who Has Guardianship of a Child

Guardianship means that parents have the right of control and custody* of the child, the right to make decisions relating to the care and upbringing of the child; the right to make decisions about the child's education and religion, the right to change the child's name, and the right of access to the child.

Parents who are guardians also have the right to grant or refuse consent on matters concerning the child such as health care, marriage, working under the age of 16, or obtaining a driving license. They also have the right to receive notification of matters that affect the child, such as expulsion from school, arrest under the *Young Offenders Act*, proceedings such as guardianship orders under the *Child Welfare Act*, or proceedings to establish the parentage of the child under the *Parentage and Maintenance Act*.

Parents have special protection under the Criminal Code for their role in correcting or disciplining the child. A parent may use force to correct a child as long as the force does not exceed what is *reasonable under the circumstances*. Other than this exception, parents and children are not immune from prosecution in relationship to each other. Parents and children can ask the police to lay charges against each other for such crimes as assault, theft or vandalism.

*For a discussion of the relationship between 'guardianship and custody', please see page 20.

Parents may send a child to boarding school, or arrange for the child to live with relatives, or other responsible persons. If a child leaves the custody of his or her guardian without the guardian's consent, the police have the right to apprehend the child and to return him or her to the guardian. A guardian also has the right to relinquish guardianship to Child Welfare either by making a guardianship agreement, or by applying for a guardianship order under the *Child Welfare Act*.

The parent may also agree to transfer guardianship to a relative or other responsible person under the *Domestic Relations Act*, or under the private guardianship provisions of the *Child Welfare Act*. However, a child over 12 has the right to consent or withhold consent for changes in guardianship, unless the judge decides that it is in the best interests of the child to proceed without the child's consent.

Specific rights of parents stated in law generally relate to custody and control of the child, and the relationship to institutions such as schools, police and child welfare. While these areas cover broad areas of parental responsibility, they do not cover the depth and breadth of all aspects of relationships between parents and their children.

Duration of Guardianship

Guardianship officially lasts until the child is 18 years old. However, as the child matures, the parent's rights decline and the child's rights and responsibilities increase. Judge White of Alberta quotes Lord Denning, an English judge, who describes parental rights as:⁵

"...a dwindling right which the Courts will hesitate to enforce against the wishes of the child, and the more so the older he is. It starts with a right of control and ends with little more than advice."

Changes in Guardianship

In addition to the gradual decline of parents' rights as the child matures, there are also exceptional circumstances where guardianship can be changed, restricted, or even terminated before the child reaches the age of majority at 18 years of age. Some of the roles and responsibilities of the guardian are legally terminated if the child marries, becomes a parent, or lives independently of his or her parent.

Examples would be, a 16 or 17 year old who is married and may obtain a driver's permit without parental consent; a girl under 16 who is pregnant or a mother who may apply to the Court for permission to marry without parental consent; and a student over 16 who is living independently and has the right to receive notices of events such as expulsion from school, without the parents being notified.

In addition, a guardian may relinquish guardianship of the child under the *Child Welfare Act* or transfer guardianship to someone else under the *Domestic Relations Act*. A person acting on behalf of the child may apply to have someone other than the parent appointed as guardian of the child under the *Domestic Relations Act* either with the parent's consent, or without the parent's consent if the judge decides that the parents are not fit and proper parents. A child, twelve years old or over, must usually consent to changes in guardianship.

A Child Welfare Director may apply for an order to terminate the parents' guardianship if, after an investigation, the child welfare worker believes that the child cannot safely remain within the home, and that the child cannot safely return home within a reasonable length of time. The child welfare worker would apply to Family Court for a permanent guardianship order. The parents, the child and certain other interested persons could express their opinion and present evidence. If the judge makes a permanent guardianship order, all guardianship rights are given to the Child Welfare Director, and the parents' guardianship is terminated. Whatever order the judge makes, the parent, the child, or the Child Welfare Director can appeal the judge's decision to the Court of Queen's Bench, within 30 days.

Parents' Responsibilities Toward Their Children

Child Support

All parents in Canada have a legal duty, under federal legislation, to provide the necessities of life for their children while they are less than 16 years old. In Alberta, the *Maintenance Orders Act* imposes a duty on parents to provide maintenance for the child, including food, shelter, clothes, medical care, and lodging until the child reaches 16 years of age.

The obligation for support can be extended beyond age 16, if the child is ill or disabled (or, in some cases, still being educated) and consequently still dependent on parents to survive. Parental obligations are less clear and somewhat dependent on the needs, resources and independence of the individual child between the ages of 16 and 18.

A maintenance order may be made by a Court against a person who fails to provide proper maintenance for a child. Where the child is between 16 to 18 years old, the parental obligations would be assessed on a case by case basis.

Child Welfare

Parents are responsible for protecting their children from neglect or abuse. Any person who has reason to believe that a child is in need of protective services is required to report the matter to Child Welfare. Child Welfare is required to investigate reports that a child may be in need of protective services unless the report is made maliciously or is without reasonable grounds. If parents feel that the child is beyond their control, or if the parents are unable to care for the child, then they may request that Child Welfare become involved, on a voluntary basis.

Child Welfare services can range from an investigation into whether the child is in need of protective services; to the provision of rehabilitative services in the home such as parent education or counselling, by agreement or under a supervision order; to the child being apprehended, and application made to the Court for temporary or permanent guardianship of the child by the Director of Child Welfare. Children under permanent guardianship orders or agreements may be placed for adoption.

The *Child Welfare Act* contains many provisions to try to protect the rights of parents and children who are involved in proceedings under the act. Parents have the right to be notified if their child is apprehended; the right to be notified

of any hearings about supervision orders, guardianship, or treatment of the child in a secure setting. The parents also have the right to request an order for access to their child. In the case of a temporary guardianship order, parents share guardianship with the Director of Child Welfare. In such circumstances, the Director of Child Welfare can overrule the decisions of the parents. However, parents have a right to appeal any Child Welfare decision to an Appeal Panel, to request a judicial review of most orders, and to appeal any order for supervision, temporary guardianship, permanent guardianship or secure treatment to the Court of Queen's Bench.

The *Child Welfare Act* states that the maintenance of a child's familial, cultural, social and religious heritage should be taken into account in any decision to remove the child from its family. For children who are members of an Indian band, there are special provisions in the Child Welfare Act requiring that the Chief or council be notified and consulted about important decisions relating to the child, such as adoption or applications for guardianship orders.

Child protection matters are addressed by the *Child Welfare Act* of Alberta and administered by Alberta Family and Social Services. A list of background materials providing details on Child Welfare services is included in Appendix III.

The failure to provide the "necessaries" of life and some acts of abuse, such as assault or sexual abuse, are also criminal offenses under the *Criminal Code*.

Parental Rights and Responsibilities Following Divorce or Separation

Divorce is governed by a federal law, the *Divorce Act*, which applies everywhere in Canada. Divorce laws cover the grounds for obtaining a divorce, and the framework for the granting of support for spouses and children, and for resolving issues related to the custody of children.

In 1985, a number of fundamental changes were made to divorce law. The grounds for obtaining a divorce were changed and new rules affecting the granting of support for spouses and children were introduced. To establish that a marriage has broken down, the spouse applying for the divorce must show that the husband and wife have lived apart for one year, or that the other spouse has committed adultery or has been physically or mentally cruel to the spouse applying for the divorce.

In addition to obtaining the actual divorce, the husband and wife must settle issues of spousal and child support, the division of property acquired during the marriage and develop a plan concerning custody of and access to the child. These questions can be settled by the spouses themselves, with assistance of lawyers, negotiators or mediators, or can be referred to the Court for a decision.⁶

Child Support

Both parents have continuing responsibilities to support their children after divorce or separation. Support for children of married parents may be granted by a Court under either the *Divorce Act* or under the *Domestic Relations Act*. Different rules apply, depending on which Act is being used.

Under the *Divorce Act*, child support is declared to be the joint responsibility of the parents and each is expected to contribute to the support of their children, in proportion to their respective ability to pay (i.e., income). Child support can be ordered for a child if the child is under 16 or, if over 16, for a child who is unable to support himself or herself by reason of illness, disability or other cause (which can include a child who is attending an educational program).

The *Domestic Relations Act* permits a judge to order a spouse to pay support for children in an amount that the judge considers reasonable, based on the incomes and resources of both spouses. There is no definition of child in the *Domestic Relations Act*. It is therefore assumed that a person under the provincial age of majority (18 years) would be entitled to support.

Maintenance orders granted by the Courts after 1991 are automatically registered with the Maintenance Enforcement Program, which collects the payments from the spouse who is required to make payments. These payments are then sent to the recipient. Any person who is a recipient of an order made before 1991 may have his or her order added to the system, on request. Any person who is a recipient of an order registered with the Maintenance Enforcement Program may request that the Program remove their order from the system. In other words, the involvement of Maintenance Enforcement is on a voluntary basis for those receiving payments.

Concerns are often expressed about the fairness of the amount of child support awarded.^{7,8} Efforts are currently underway, through a joint federal, provincial and territorial initiative, to consider whether guidelines for child support awards should be developed.⁹

Custody

Custody of children can be decided under either the *Divorce Act*, the *Alberta Domestic Relations Act* or the *Provincial Court Act*. The tests for deciding which parents shall have custody are somewhat different under the three acts.

The *Divorce Act* directs the Court "to take into consideration only the best interests of the child of the marriage, as determined by reference to the condition, means, needs and other circumstances of the child." The conduct of the parents in the marriage is not relevant to a custody decision, unless the conduct directly affects parenting ability. Another factor the Court can consider is which of the two parents is most likely to encourage access to the children by the other parent.

Under the *Domestic Relations Act*, the Court "shall have regard to" the child's welfare, the conduct of the parents, and the wishes of both the mother and the father.

If the parents are living apart from one another, and there is a dispute as to custody of or access to the child, then either of the parents or the child may apply

to the court under the *Provincial Court Act* for an order regarding custody of and access to the child.

Joint Custody

The concept of joint custody following divorce has received considerable attention in the last few years. Some American states have made joint custody the preferred decision, while others have simply made joint custody an option¹⁰. The *Divorce Act* permits an order of joint custody to be made.

Joint custody may be either **legal** or **physical**. **Joint legal** custody gives both parents equal rights to make major decisions for the child. Major decisions include such things as education, religious training and major medical decisions. Joint legal custody requires that the parents be able to agree on these matters. If they cannot, they may have to enlist the aid of a mediator or apply to the Court to resolve the problem.

Joint physical custody is also referred to as **shared parenting**. In theory, joint physical custody involves the child living for comparable amounts of time with each parent. In practice, however, joint physical custody awards tend to specify that the child's primary residence is with one parent for the majority of the time and with the other for a much smaller amount of time. There has often been little difference in effect from the more traditional order of sole custody, which is given to one parent, with access to the other³.

Access

Access refers to the right of the non-custodial parent to contact his or her child. In some recent Court decisions, it can also be interpreted to mean the right of the child to have contact with his or her parents.

In the last few years, concerns have been raised about the unwillingness or inability of the Courts to enforce access orders. Most of the discussion has centred around access to a child being denied to a parent who is entitled to it. Conversely, the failure of parents, who do have a right of access, to see their children is also a considerable problem¹¹.

Parents with access disputes may be able to receive assistance from the Custody Mediation Program in Calgary and Edmonton.¹² Parents may also apply to Court to change their custody and access arrangements.

Legislation has been considered, in several provinces, to establish an access enforcement system to parallel the maintenance enforcement system. Manitoba began a 3-year-pilot access assistance program in Winnipeg, in the spring of 1989. The purpose of the program was to assist parents to settle their problems, with the help of mediators.

In Alberta, legislation has been proposed several times, on the enforcement of the access rights of parents, but has not been enacted.

What is the Relationship between Guardianship and Custody?

There is sometimes confusion about the meaning of guardianship and how it relates to custody. Guardianship includes both **legal custody**, which is the right to make important decisions on behalf of the child, and **physical custody** which is the day to day care and parenting of the child.

In the simplest case, where there are two married parents living with their child, the parents are joint guardians of the child. The parents share joint **legal custody** of the child, which means that they have equal rights to make major decisions, such as about the child's education, religion, and medical care. They also have joint **physical custody** which means they have equal rights and shared responsibilities to provide day to day parenting and care to the child.

If the parents separate or divorce and apply to the Court under either the *Domestic Relations Act*, the *Provincial Court Act*, or the *Divorce Act*, the Court may approve the parents' plan for sharing or dividing the legal and physical custody of the child, or, if necessary, the Court may make the decision about the custody of the child.

Sometimes, a parent or parents may entrust the day-to-day care and parenting of a child to someone else, such as the child's grandparent for a period of time. Generally the grandparent or other person entrusted with the care of the child would have physical custody of the child, and the right to provide care and guidance.

However, for legal matters, such as providing notice of expulsion from school, notice of arrest, or medical consent, the parents would still have legal custody of the child. If the parents wanted to entrust the grandparent with guardianship of the child, including both day-to-day care (physical custody) and legal custody, so that the grandparent can make major decisions, then they could make an agreement to do this under the *Domestic Relations Act*.

In brief, guardianship includes both legal and physical custody; but custody includes only those parts of guardianship that have been transferred through agreement by the guardians or as ordered by the Court.

Choice of Location of Residence

In the case of a married couple, parents have the right to choose where they and their children should live. However, in the event of a divorce, Courts may place restrictions on the right of either parent to move, in order to maintain the child's contact with both parents.

The Court must weigh the prospective advantages and disadvantages of the move, in terms of the quality of life for the children. One factor is whether visitation with the other parent can be arranged in the new location. The Court must also look at the parent's motivation for the move, to ensure that it is not intended to deprive the other parent of access rights.^{13, 14}

Violation of Custody Orders

The *Extra-Provincial Enforcement of Custody Orders Act* provides for the registration and enforcement, in Alberta, of custody orders made in other provinces or countries. All other provinces, some American states and several other countries have similar legislation, which allows for the registration and enforcement of Alberta custody orders outside Alberta. Prior to the introduction of this type of legislation, one parent could defeat a custody order by moving to a different province and getting a new custody order. Under the *Extra-Provincial Enforcement of Custody Orders Act*, the existing custody order is respected, and requests for changes in custody would normally be considered by the Court granting the original custody order.

There have been occasions where parents have taken the law into their own hands and kidnapped their children, in order to prevent the other parent from having custody. Parental abduction sometimes happens before a Court order for custody has been made and sometimes after the custody order, where a parent disagrees with the order. Taking a child who is under 15 years of age away, with the intention of preventing the other parent from having custody or access, is a criminal offence, whether or not there is a Court order for custody and/or access. Charges can be laid against abducting parents and Canada-wide warrants can be issued for their arrest.

In addition, Canada is a signatory of the *Hague Convention on the Civil Aspects of International Child Abduction*, the aim of which is to locate and return children who have been taken out of their home country to another signatory country. The *International Child Abduction Act* can be used to obtain the return of an Alberta child from another signatory country, or to return a child brought to Alberta to its home country. After a child has been returned to the proper jurisdiction under the *International Child Abduction Act*, a parent or guardian of the child may apply to the Court to review custody or access orders, if the circumstances warrant it.

Responsibilities of Unmarried or Common-Law Parents to Their Children After Separation of the Couple

The mother of a child born to unmarried parents is automatically a guardian of the child and has the same rights and responsibilities to the child, regardless of whether she was married at the time of the birth.

The father's rights and responsibilities toward the child are the same, whether or not he was married to the mother at the time of the child's birth. However, his rights may not be enforceable, unless he has obtained guardianship of the child, jointly with the mother. He may automatically have joint guardianship with the mother if he meets the criteria included in the *Parentage and Maintenance Act* or the *Domestic Relations Act*. He may also obtain a determination of parentage under the *Parentage and Maintenance Act*, and apply to become a guardian of the child, jointly with any other guardian(s) under either the *Child Welfare Act* or the *Domestic Relations Act*. His responsibilities for maintenance of the child can be enforced, if there is a presumption of parentage, a determination of parentage, or an assignment of guardianship.

If the parents are joint guardians of the child, then they may make agreements relating to the child's custody, access and support, under the *Domestic Relations Act*.

If the parents are living apart from one another and there is a dispute as to custody of or access to the child, then either the parents or the child may apply to the Court under the *Provincial Court Act* for an order regarding custody of and access to the child.

If the mother is the sole guardian of the child, she can still apply for a maintenance order from the father of the child, under either the *Parentage and Maintenance Act* or the *Domestic Relations Act*.

Once orders or agreements for maintenance or custody and access have been established, the same rules of enforcement apply, whether or not the parents were married, living common-law, or unmarried when the child was born.

Grandparents' Rights

Grandparents can contribute to the well-being of their grandchildren in many ways - through the provision of love and support, continuity in times of family stress or transitions, a sense of family history and heritage, positive role models, a confidante, and sometimes by providing child care or extra financial support.¹⁵ However, grandparent-grandchild relationships vary greatly, depending on how close they live to each other and the age, gender, needs, interests, resources, and characteristics of each¹⁶, and the amount of time the grandparent and grandchild spend together one-on-one.¹⁷ In addition, grandparents' involvement with grandchildren is often related to the quality of the relationships between the grandparent and the child's parent or parents.¹⁶ Research on grandparent/grandchild relations suggests that the quality of the grandparent/grandchild relationship is better if the child feels that the relationship is supported by the parents.¹⁷

In some cases, grandparents have expressed concern about problems in obtaining access to their grandchildren. Problems can arise after the divorce or death of their child; or if their grandchild is born to unmarried parents; or if the grandparents become involved in ongoing conflict with their son or daughter who is the parent of the child; or if the parents' rights are terminated due to adoption, or due to parental abuse or neglect. In Alberta, grandparents do not have a right of access to their grandchild. In contrast, in Quebec, the Civil Code states that "In no case may a father or mother, without a grave reason interfere with personal relations between the child and his grandparents."¹⁸

Under the Canadian *Divorce Act*, if the parents divorce, a grandparent may make a third-party application to apply for access to the grandchild.¹⁶ Under Alberta law, in some situations, grandparents may be able to use the private guardianship provisions of the *Child Welfare Act*¹⁸ the custody or access provisions of the *Domestic Relations Act*, or possibly the *Provincial Court Act*, if either one of the parents or the child applies for an order granting grandparent/grandchild access.¹⁸

All states of the United States have some form of grandparent rights legislation¹⁵, and a few include grandparent responsibilities as well as rights.¹⁹ Generally, these laws give grandparents a right to be heard in court when the custodial parents do not allow visitation. They do not give grandparents a right to visitation.¹⁵ However, there are concerns that efforts to provide legal protection

to grandparents' rights may risk undermining the parents' rights and responsibilities to decide on the upbringing of their child.

There is also controversy over whether legislation is the best solution to conflict between grandparents and parents about access to grandchildren.¹⁹ Trying to obtain access through the courts can be a lengthy, costly and emotionally draining experience.¹⁸ There are also circumstances in which grandparent visitation may be determined to not be in the grandchild's best interests, such as if the grandparent is disturbed, abusive, or undermines parental authority.¹⁵

Most research recommends a focus on conciliation between the grandparents and the parents of the child. This limits the child's exposure to intergenerational conflict and loyalty conflicts. If the grandparent can establish and maintain a positive relationship with the custodial parent, and demonstrate the benefits of maintaining grandparent-grandchild relations, this would usually be a more constructive solution.²⁰ Alternatively, grandparents can sometimes arrange access to the child during the child's visitation periods with the non-custodial parent.²⁰

If the child is involved in Child Welfare proceedings, then ongoing positive relationships with grandparents and other relatives will usually be very important to the child.¹⁹ Alberta's *Child Welfare Act* contains many elements to help facilitate ongoing extended family involvement, that would include involvement by grandparents.

Further information on Child Welfare issues is available from the brochures listed in Appendices III and IV.

In summary, grandparents can potentially contribute significantly to the well-being of their grandchildren, and the quality of this contribution will to a considerable extent be influenced by the relationship between the grandparents and the child's parents. At present, in Alberta, grandparents do not have a right of access to their grandchildren, but may, in some circumstances have an opportunity to be heard in court. However, approaches to reduce intergenerational conflict and improve intergenerational cooperation, such as mediation rather than legal proceedings, may better serve the interests of the child.^{15,20}

The Age of Majority

In 1971, the age of majority in Alberta was reduced from 21 years of age to 18 years of age. At 18, a young person legally becomes an adult and has the right to vote, to serve on a jury, to marry, to change his or her name without parental consent, or to join the armed forces. The young person at 18 is considered to be an independent student at school. The young person is fully capable of giving informed consent for medical or mental health care, for business contracts and for sexual relationships. The young person can also be held criminally responsible as an adult, for his or her actions.

The Legal Definition of Childhood

The transition from the nearly complete responsibility of parents for their child at birth to the emancipation of the child at 18 is a gradual process. A few examples of statutes that provide the legal definition of childhood are outlined below. An overview of the emerging rights of the child at each age is presented in Appendix I. A more detailed list, including references to relevant Alberta legislation, is included in Appendix II.

Marriage

A child can marry at 18 without parental consent, or at 16 with parental consent. If the parents refuse consent, a young person 16 and over may apply to the Court for permission to marry without parental consent.

A person under 16 may not marry, with the exception of a girl under 16 who is pregnant, or who is the mother of a living child. A girl who is pregnant or the mother of a living child may apply to the Court for permission to marry. The judge can agree or refuse to grant permission.

Health Care

Generally, medical treatment can only be given with the consent of the patient. A child, like any person, can give valid consent for medical treatment unless the child is unable to understand the nature and consequences of the treatment. This may be due to the age or capability of the child. If the patient cannot give valid consent due to incompetence or disability, then a guardian may give or withhold consent on behalf of the person. When a young person is not able to understand the nature and consequences of treatment, the parent has the responsibility of providing or withholding consent for medical treatment on behalf of the child.

The legal situation becomes complex in several situations: in emergencies; in situations where parents object to a treatment that physicians believe is necessary to safeguard the life or health of the child; in situations where an older child requests treatment and requests that his or her parents not be informed; in situations such as birth control or abortion, where the young person and the parents may have strongly held and differing views; and in situations such as treatment for drug abuse, alcohol abuse, or sexually transmitted diseases, where the young person may not want his or her parent informed. In each case, there is a need to balance the parents' role in providing guidance, health education, care, and protection to their child and their wish to be informed of matters concerning the child, with the child's developing capability to give or withhold consent, once he or she is capable of understanding the treatment and its results, and of taking responsibility for his or her decisions.

Emergencies

In Alberta, a physician who is providing treatment in an emergency, where there is immediate risk to the child's life or health, can provide treatment without consent.

Parental Refusal of Treatment

Generally, a parent's decision about treatment for their child must be respected if the child is not yet able to understand the nature and consequence of treatment. However, if a parent refuses treatment that physicians believe is necessary to

save the life of the child, the physicians or other concerned individuals could report that the child is in need of protection to Child Welfare Services. Child Welfare officials could apprehend the child or apply for temporary guardianship of the child, and apply to the Court for a treatment order authorizing the treatment. The parents have rights to contest and to appeal the apprehension or guardianship order, and the request to authorize treatment.

The parent's rights to make health care decisions for their child are conditional and will depend on the age of the child, possibly the wishes of the child, the circumstances of the need for health care service, and other factors.

Older Children and Consent for Treatment

In some jurisdictions, children 16 and over are considered to be mature enough to provide valid consent for treatment²¹. In Alberta, at 16, a child can make many decisions independently, including choosing to live apart from his or her parents. The *Mental Health Act* allows a guardian to provide consent for formal mental health care on behalf of a child under 18. Under the *Young Offenders Act*, young people, aged 12 to 18, may be detained for treatment, but only if they consent. Other than these instances Alberta legislation does not provide information on the age of consent for medical treatment. However, case law, summarized by the Alberta Institute of Law Research and Reform, in 1975, suggests that a child "*who is capable of appreciating fully the nature and consequences of a particular operation or a particular treatment*" can give an effective consent for the treatment or operation²¹. Recent judgements suggest that the Courts will consider, and most often respect, the wishes of a competent, well-informed child about his or her health care.

This means that, understanding the application of the law in the current situation may sometimes be difficult for parents, physicians, and older children. If the child is under 18 and there is doubt as to the child's ability to give valid consent but the child refuses permission for the physician to consult with or request consent from his or her parents - the physician may have to choose between several difficult options such as whether to provide treatment based on the child's consent; to decline to provide treatment to the child, without parental consent; or to risk a breach of confidentiality, and consult with the parents.

In addition, the physician's decision-making may be complicated by his or her professional code of ethics and by the policies of the hospital or organization

within which he or she is working. Some hospitals require the consent of parents before operating on a child under 18.

Birth Control and Abortion

The issues concerning the right of the parent or of the child to consent become even more pronounced in relation to the provision of birth control or therapeutic abortions to young people. Ideally, the young person would seek the advice and support of parents on these issues. Alternatively, the young person could give the physician permission to consult with his or her parents.

Until recently, in Quebec, a physician providing birth control to a minor had an obligation to inform the parents, and in British Columbia, the physician had the privilege of informing the parents⁵. In contrast, in Ontario, a judge recently decided that a 13 year old child who wanted an abortion when her parents refused to consent, should be allowed to proceed with the abortion. Under Ontario provincial law, the child's best interests come first - and the judge suggested that the 13 year old child was the best judge of her own best interests.²² Legislation in this area is under review or changing in several provinces, including both Quebec and British Columbia.

At present in Alberta, birth control information or abortions may be and are being provided to children under 16 without the parent or guardian being informed or asked for consent, if the child appears to understand the nature and consequences of the treatment.

Sexually Transmitted Diseases

It is important that young persons should receive immediate treatment for sexually transmitted diseases. The legislation requires that any person who is infected with a sexually transmitted disease, or who suspects infection, must submit to examination and treatment. A parent who knows or has reason to suspect that his or her child, who is living with them, has a sexually transmitted disease, is responsible for ensuring that the child receives medical care. Alberta has a requirement that individuals with sexually transmitted diseases should be reported by the physician for follow-up, under the *Public Health Act*. However, the law does not require that the child's parents should be notified.

A child who knows he or she has a sexually transmitted disease, and who gives it to someone else, can be held criminally responsible.

Immunization

A consensus seems to be emerging in the area of consent for immunization. When children are very young, they usually receive their initial immunizations through Alberta Public Health Clinics. The parent gives consent for these immunizations as the child is clearly too young to provide valid consent. Booster immunizations are usually provided when the child is in junior high school, usually Grade 9, and generally between the ages of fourteen and sixteen.

The Health Units generally request consent for immunization from both the parent and the child. This provides the opportunity for both parents and teens to be updated on the benefits and risks of immunization and to give informed consent. When both the parent and the child consent, the child is routinely immunized. When either the child or parent withholds consent, the Health Unit staff contact both to try to resolve any issues.

If there is a refusal of consent by the parent or child, the child is not immunized. Communities where a high proportion of children and adults have chosen not to be immunized are monitored to facilitate early detection and treatment of outbreaks of infectious diseases.

Employment

The Employment Standards Code sets out the minimum standards that apply to employers and employees in Alberta. The standards include areas such as minimum wages, vacation pay, termination of employment, parental benefits, and the employment of young persons. Further information on standards is available from the resources included in Appendix V.

Parental Benefits

Maternity Leave

Women employed 12 months with the same employer are entitled to 18 weeks unpaid maternity leave. Leave may begin at any time during the 12 weeks before the estimated date of birth. The employee must give her employer two weeks written notice of the date on which she intends to begin leave, and of the date she intends to resume employment or resign.

Adoption Leave

A male or female employee employed 12 months with the same employer is entitled to 8 weeks of unpaid leave when adopting a child under 3 years of age. An employee must give the employer written notice at least 2 weeks before the expected custody of the child. If 2 weeks notice cannot be given, the employer must be notified immediately after notice of the adoption is received. The employee must provide 2 weeks written notice before returning to work or resigning.

Employees returning from maternity or adoption leave must be reinstated in the same or a comparable position with the same wages, entitlements or other benefits as received when the leave began.

Parental Leave

Unemployment Insurance provides an additional 10 weeks of support that may be requested by either the father, the mother or both, subsequent to the birth of their child. However, these additional parental leave provisions are not included in Alberta's Labour Standards, and there are therefore no legal requirements for employers to provide parental benefits other than maternity and adoption leave. Parental leave other than maternity leave and adoption leave in Alberta, is a matter for negotiation between employee and employer.

Employment of Children, Adolescents and Young People

Children

A child under 12 is not permitted to work in any employment. Casual labour such as yard care and baby sitting, are not considered to be employment in the usual sense. It is assumed that any such work is carried out with direct involvement of parents or guardians who are fully responsible for the child's welfare. Newspaper deliveries and child entertaining, modelling or acting are normally subject to a contractual arrangement that is not considered to be employment. Again, parents or guardians have the primary responsibility to ensure that the health, safety and moral interests of the child are safeguarded.

Adolescents

Between the ages of 12 and 15, an adolescent may work for a business only with written permission from his or her parents or guardian. Adolescents 12 to 15 may not work at night, between 9:00 p.m. and 6:00 a.m. With permission from parents, adolescents aged 12 to 15 may work up to two hours on school days and eight hours per day on weekends or holidays at a job such as a clerk or on deliveries, if the job does not harm the child's health, education, or general well-being.

Young Persons

Young persons aged 15 or over, but under 18 can work for most businesses , except underground in a mine. However, adult supervision is required for young persons working after 9:00 p.m. in a restaurant, bar, store, gas station, hotel or motel. Young persons under 18 are prohibited from working in such businesses between midnight and six in the morning. In businesses other than

restaurants, bars, stores, gas stations, hotels or motels, young persons may work between midnight and 6:00 a.m., if they work with, and are in the continuous presence of, at least one adult, and if they have written permission from their parent or guardian. Further information on standards related to the employment of young people is available from the resources listed in Appendix V.

Property and Assets

A child has a right to own property and the child has a right to have his or her assets and interest in property protected through the Public Trustee, until age 18, unless someone else has been appointed to act as the custodian of the child's estate through formal letters of guardianship. The Public Trustee may, at his discretion, make payments from the income of the assets held in trust, for the support or education of the child. A child, 14 years old or older, has the right to consent or withhold consent concerning the sale or disposal of his or her property.

Education

Access to Education and Duty to Attend

Generally, children between the ages of 6 and 16 must attend school full-time, unless medically ill or educated at home by parents. In addition, a child who is 6 years of age on September 1, and less than 19 years of age on September 1, has the right to an education. Children younger than 6 or older than 18 on September 1 are 'permitted' by the school board to attend but do not have a 'right' of access. Between ages 16 and 18, the student's 'right' of access to education is balanced against the board's 'right' to expel a student. At school, the child is required to comply with school rules and may be disciplined, within reasonable limits.

The child between the ages of 6 and 16 has a duty to attend school. If the child fails to attend school, both the parent and the child may be required by the Attendance Board to attend proceedings before the Board. The Attendance Board may give directions to the student, the parent, or make whatever order it considers appropriate in the circumstances.

Access to Information and Rights to Consultation, Notice and Appeal

Parents have the right of access to their child's student record, to consultation in relation to any special education placement of the child, and to written notice of the child's suspension or expulsion from school. Parents also have the right to appeal any education decision to the school board, and a right to request in writing that the Minister review certain school board decisions concerning their child such as decisions related to special education, francophone education, home education, expulsion, and fees. At age 16, the child also has the right of access to his or her student record, and a right to receive written notice of the child's right to appeal to the Minister, if the child is expelled from school. In addition, the child has a right to request in writing that the Minister review any school board decision regarding expulsion, special education placement, home education, fees or certain other matters. The student, 16 years old or older, also has the right to appeal any education decision to the school board.

Independent Student

If a child is 18 years old, or a child is 16 years old or older and meets the definition of "independent student" under the *School Act* (18 years or 16 years or older and living independently, or under a support agreement under the *Child Welfare Act*, or on behalf of whom a Social Allowance is being paid), then the child has all the rights that the parent would have, such as access to the student file, and the right to receive notice of school board actions. Under these circumstances, the parent can no longer exercise these rights. An amendment to the *School Act* is being proposed, that would give the independent student both the rights and the responsibilities that the parent would have, rather than just the rights.

Financing Post-Secondary Education

A student loan system is in place to assist young people in financing post-secondary education under the authority of the *Students' Finance Act*. A young person, 16 years old or over, can contract for a student loan, as if he or she were an adult.

Sexual Behaviour

Sexual Behaviour Between Young People

Children under 12 are never considered able to consent to sexual behaviour. However, the law does not prohibit consenting young people, 12 years old or older but less than 16, from participating together in sexual behaviour, as long as they are less than 2 years apart in age and neither is in a position of responsibility over the other, such as a coach or baby-sitter²³.

Sexual Interference with Children

It is an offence for any person to touch the body of a child under 14 for a sexual purpose, or to invite someone under 14 to touch another person's body for a sexual purpose. This offence is referred to as *sexual interference with a child*. The only exception is when both individuals are consenting young people between 12 and 15 and less than 2 years apart in age, and neither is in a position of trust over the other, such as a coach or babysitter.

Sexual Behaviour Between A Child and a Person in a Position of Trust

Young people between 14 and 18 are protected from sexual exploitation by people who are in a position of trust or authority over them, or by people on whom they depend. Examples of people in positions of trust would be teachers, coaches, parents, foster parents, employers, or babysitters. The law prohibits anyone in a position of trust from touching the child for a sexual purpose, and from encouraging the child to touch the other person's body for a sexual purpose, and defines this crime as *sexual exploitation of the young person and invitation to sexual touching*.

Sexual Intercourse

The Criminal Code, since 1988, does not distinguish between sexual intercourse and other forms of sexual touching, where young people are involved. Under the new law, the age of consent, even for sexual intercourse, is 14 years old, unless one of the persons involved is in a position of trust in relation to the other, such as a coach, teacher, or babysitter. Young people are not considered to be able to give consent for sexual behaviour with a person in a position of trust until they are 18 years old or older.

Incest

Sexual intercourse between blood relations is a crime under the Criminal Code regardless of the age of the individuals involved. Blood relations include a parent, child, brother, sister, half-brother, half-sister, grandparent and grandchild. A person who was under restraint, duress or fear at the time of the intercourse cannot be charged, such as, for instance, a child who was forced or frightened into participating. The maximum penalty for incest is 14 years imprisonment.

Sexual Assault

Sexual activity without consent is always a crime, regardless of the age of the individuals involved. The maximum punishment is a \$2,000 fine and/or ten years in jail for an indictable offence.

Anal Intercourse

Acts of anal intercourse are prohibited with children and young people under 18, unless the individuals are husband and wife.

Other Sexual Abuse

There are many other types of sexual assault of children, including vagrancy, indecent acts, exposure, procuring, soliciting, and corrupting children. These offenses are described in the publication, *Canada's Law on Child Sexual Abuse*, which is included as a reference.²³

Status of Children Before the Law

Criminal Responsibility - Young Offenders Act

In 1984, the *Young Offenders Act* raised the age of criminal responsibility in Canada from 7 to 12 years of age. Children under 12 who violate the criminal law are to be dealt with by parents, or under Alberta's child welfare legislation. Parents have a right to be notified, as soon as possible, if their child is arrested under the *Young Offenders Act*. Children 12 to 18 years old have the right to a ban on publishing their name and identifying information, in order to protect their privacy. This publication ban can only be lifted through an application to the Court. A person 12 to 18 who is charged under the *Young Offenders Act* has a right to retain counsel, paid for either by the family or at public expense.

Child Welfare

Under the *Child Welfare Act*, a young person, of any age, may request representation by a lawyer when the child is the subject of proceedings under the Act. The child may also appeal any child welfare decision to the Appeal Panel. A child of any age must be served with notice of secure treatment hearings, reviews, and appeals, may apply for a review of a secure treatment order, and may appeal a secure treatment order to the Court of Queen's Bench. A child 12 years old or older may also apply for a review of an order, consent or withhold consent for adoption, private guardianship, joint guardianship, or the termination of parental guardianship if the parent applies to surrender guardianship of the child, apply for access to an adult or another child, and give or withhold consent for a request for access from another child or anyone except a guardian. However, the judge may decide to proceed without obtaining the child's consent if it is in the child's best interests to do so.

In Relation to the Separation or Divorce of the Parents

The child does not usually have a right to legal representation during custody hearings, although the Court may appoint a lawyer as "*amicus curiae*" (a friend of the Court) to bring forward evidence under certain circumstances, and provide expert opinion to assist the judge in deciding what is best for the child.²⁵ The law allows for the Court to consider the views of the child, if the child is 14 years old or older. The parents may choose to hire a lawyer to act on the child's behalf, or the child may apply to Legal Aid for the appointment of a lawyer, if the child requires independent legal representation.²⁶ Both parents have a legal duty to support their child until the age of 16, or 18 if the child is in high school or otherwise unable to support him or herself. Under the *Divorce Act*, parents may agree or may be ordered to support the child beyond the age of majority.

Financial Assistance

Until the child is 16 years old, the parents have the responsibility to provide for the maintenance of the child. If the family is receiving financial assistance through the Supports for Independence Program, the parents will receive assistance to support their dependent children under 16. Children, over 16 but under 18, who are attending school, or unable to work will also be considered as dependents of their parents.

In some cases, if parents cannot support their children, or if children under 18 are parents themselves, financial support may be provided directly to them, or to their guardian. A young person who is over 16, and living independently, may be provided with financial assistance, if the parents are unable or unwilling to provide support and the young person is unable to support him or her self. Unmarried parents between 16 and 18 who are in need may receive financial assistance whether they live with their parents or independently.

Unmarried parents under 16 who are in need may have financial assistance paid to their parents on their behalf. The new *Supports for Independence* program, emphasizes the importance and the responsibility of all recipients, including young people, to seek employment, or to participate in training or education whenever possible.²⁷

Persons with severe handicaps can apply, at age 18, for *Alberta Assured Income for the Severely Handicapped*.

The Responsibility of Children to Parents

While there is considerable discussion of children's *rights*, almost no attention has been directed at what duties children owe to their parents or guardians. A review by White suggests that children in Alberta have virtually no duties toward their parents that are enshrined in law.⁵

However, in Quebec, the Civil Code demands filial respect and obedience. In the United States, Supreme Court decisions have stated that there are reciprocal responsibilities between parent and child.¹⁴ In one case, a young woman sued her father for support after he cut off funds for her education when she chose to live independently, rather than in the college dormitory, as he had requested. The judge stated that:

"The obligations of parenthood, under natural and civil law, require of the child 'submission to reasonable restraint, and demands habits of propriety, obedience, and conformity to domestic discipline.' True, a minor, rather than submit to what her father considers to be proper discipline, may be induced to abandon the latter's home; but in so doing, however impatient of parental authority, she cannot enlist the aid of the Court in frustrating that authority, reasonably exercised, by requiring that her father accede to her demands and underwrite her chosen life style..."

Similarly, a young man had refused to visit his father and changed his name to his stepfather's and then sued his father for support for college. The judge refused the young man's request for support, stating that:

"While it is true that the parental obligation to support a child does not terminate simply because the child is at odds with the parent, it is also true that the child's right to support is not unlimited. A parent has a right to expect a minimum of respect and obedience from his child. By admittedly rejecting visitation with his father and by cavalier rejection of paternal identity without consultation with or explanation to [the father] this 18 year old 'adult' has voluntarily asserted his independence from [his father] and has thus forfeited his right to claim support from him."

Both of these cases involved children who had reached the age of majority and who expected to have support without reciprocal responsibilities.¹⁴

A similar Canadian case is described by McLeod and Mamo¹³, in which the parent was not obligated to support a child who had voluntarily withdrawn from parental care and control. In this case, the child had moved out of the parental home to escape reasonable parental rules and restrictions and was not pursuing education with due diligence, although enrolled in courses. The Court refused to order support for the child.

There may be a trend in case law, in some jurisdictions, to recognize that the child, particularly the adult child, has some responsibilities of respect and obedience toward the parent, if the child expects continuing support from the parent.

The Transition Period From Childhood to Adulthood

From birth to age 12, the parents' responsibilities to the child and their right to make decisions on behalf of the child are relatively clear. The only exceptions are if there are Child Welfare concerns related to neglect, abuse, or the need for medical treatment of life threatening conditions.

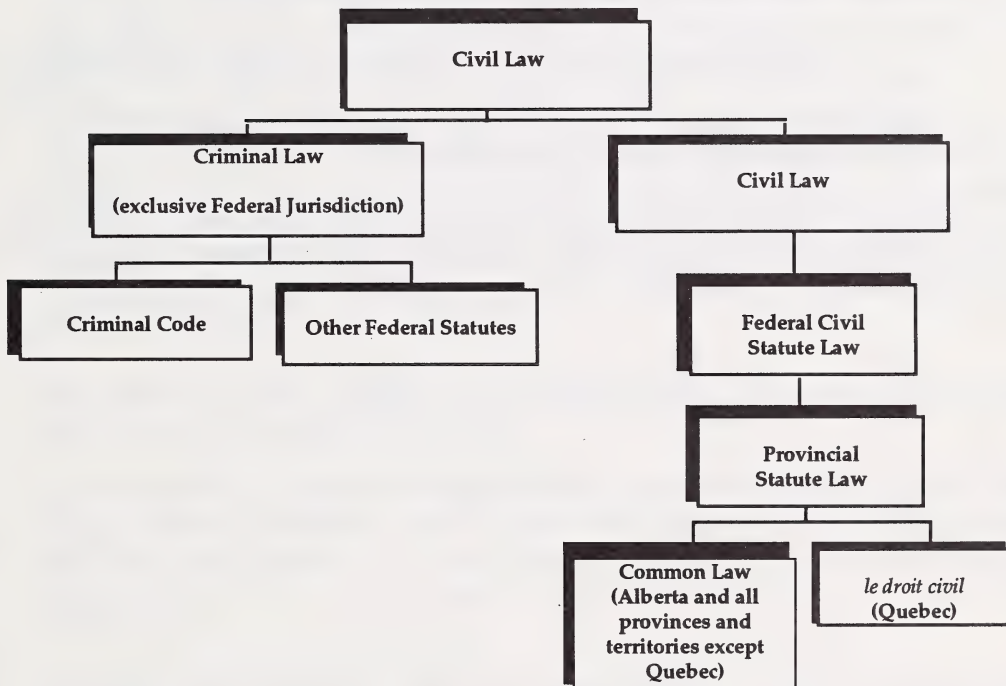
From age 12 to 18, there is an uneven progression. The parent has a continuing duty to care for, support, and protect the child, but the child has increasing rights and responsibilities before the law.

There are several contentious areas, during this transition period, related to:

- consent for medical or mental health treatment, particularly in relation to drug or alcohol abuse, birth control, pregnancy, abortion, or sexually transmitted diseases.
- the parent's wish to be informed about treatment of the child, versus the child's right to confidentiality, once the child is capable of giving valid consent.
- the child's legal competence to consent to sexual behaviour, versus the parents' wish to protect the child from sexual exploitation.
- the relationship between the parents' duty to the child and the child's responsibility to give a minimum of respect and obedience to the parent.
- parents' concerns that a child of 12 or less can be expected to direct a lawyer, paid for by the parents or the state.

The Charter and the Child

The *Constitution Act* of 1982, significantly changed Canada's legal system. The *Constitution Act* forms the basis of the Canadian legal system. All laws - whether national, provincial or territorial are subject to the *Constitution Act*, and the *Canadian Charter of Rights and Freedoms*, as illustrated in the diagram below:



Any law that is inconsistent with the provisions of the *Constitution Act*, or the Charter of Rights and Freedoms is invalid. However, section 1, of the *Charter* states that rights and freedoms are subject to limits prescribed by law, that can be justified in a free and democratic society.

Therefore, the role of the Courts, and particularly the Supreme Court of Canada has been expanded. Although Canadian courts have always had the power to

declare laws invalid, this power was previously limited. Legislation could only be struck down if the government introducing it had exceeded its legislative authority as defined in the earlier *Constitution Act* of 1867 (the former *British North America Act*).

Since 1982, courts have also had the power to strike down legislation if it infringes or denies any of the fundamental privileges recognized in the *Charter of Rights and Freedoms*. Essentially, this new power has made Supreme Court judges the guardians of Canada's constitutionally guaranteed rights.²⁸

An emerging issue is whether some public policies or legislation may discriminate against children because of age. *The Canadian Charter of Rights and Freedoms* specifies that every individual is equal before the law and has the right to equal protection of the law, regardless of age.

Several Court challenges based on the *Charter* have been initiated with the intention of benefiting children and more such challenges are expected in the future.²²

Conclusion

Social attitudes and practices - even legislation - have been shifting to reflect changes in the controls once exercised almost exclusively by parents. In the past, there was a focus, primarily, on the rights of adults - the parents and the state - in relation to children, and on the children's needs for care, protection, guidance, and emotional support. What used to be moral duties are now often enforceable legal obligations. In some situations, rights that were originally considered to be parents' rights are now recognized as a right of the child as well.⁵

The traditional right of the non-custodial parent to access to the child, has, in some recent cases, been interpreted as a right of the child as well, to visit with, be visited by, and to maintain contact with and knowledge of the non-custodial parent. The traditional right of the parent to represent the child's interests in legal matters has been transformed into the child's right to legal representation, in proceedings under the *Young Offender's, Child Welfare, and Parentage and Maintenance Acts*.

The *Canadian Charter of Rights and Freedoms* specifies that every individual is equal before the law, regardless of age.

It is evident that the rights and responsibilities of parents, children, and the state are in a period of transition. From the turn of the century until about 1960, there were very few changes in the laws relating to the rights and responsibilities of parents and children. In the past few decades, there have been substantial changes.^{13,28}

It is likely that, in the future, there may be even more consideration of children's rights, and possibly more attention given to children's responsibilities as well.

Next Steps

This document, "Coming of Age in Alberta: An Overview of Parents' and Children's Rights and Responsibilities", has been prepared by the Premier's Council in Support of Alberta Families to provide background information for ongoing discussions with Albertans. Parents and other family members have said that they often do not know their rights, and find it very difficult to obtain useful information on their rights and responsibilities. Concerns have also been expressed that there is a perception that the rights of parents in relation to children have been eroding over the last few years. This document is a step in a continuing dialogue. A brief overview of the Council's ongoing activities in this area is presented below. More detailed information is available in the document Action Update, which is available from the Council.

International Year of the Family

During 1994, the Premier's Council in Support of Alberta Families will be coordinating initiatives related to the International Year of the Family (IYF) in Alberta. The United Nations has declared 1994 the International Year of the Family. The Council is working with Alberta communities to bring attention to the importance of this Year as a catalyst for supporting and enhancing family well-being.

Community Activities Related to Rights and Responsibilities of the Family

As part of the IYF activities, the Council is working with communities across Alberta to assist them in getting people together to discuss and to make plans to address family issues — through workshops, forums, guest speakers, or related initiatives.

The focus of these discussions will be the "rights and responsibilities of families", examining how we as strong individuals — children, parents, and community members — support individual rights and freedoms within a responsible commitment to our families and our communities. Through the Wild Rose

Foundation, lottery funds have been made available to assist communities in organizing their initiatives.

Through this process, Albertans will have an opportunity to listen to each other; to share their experiences; to learn from each other's hopes, dreams, and experiences; and to build a shared understanding and a foundation for action, in our own communities throughout the province.

A summary of the discussions in each region and the highlights of the proposed actions will be sent to the Premier's Council in Support of Alberta Families, by regional organizers. These regional reports will be consolidated into a provincial perspective.

Provincial Symposium

In December, 1994, a Provincial IYF Symposium will be held in Edmonton with delegates from all of the regions, gathering together to identify shared goals and future initiatives to enhance family well-being in Alberta. The focus of the symposium will be on "rights and responsibilities of families". The symposium will highlight some of the actions that can be taken to assist communities to foster and strengthen families.

Ongoing Action in Alberta

The symposium discussions will provide input for determination of Council priorities for the future. In addition, in each community and region, it is expected that IYF activities will stimulate awareness and action in support of the rights and responsibilities of families, and initiatives to improve family well-being.

Ongoing Action Internationally

Non-governmental organizations, national governments and, the United Nations will also be considering the development of a declaration on the rights and responsibilities of families to mark the International Year of the Family.

A document has been prepared as a basis for discussion around the world related to the development of a declaration of the rights and responsibilities of families. This document, entitled, "Guiding Principles on the Family" was prepared by a working group of the Non Government Organizations Committee on the Family at the United Nations in Vienna, Austria, in 1993. It is included as Appendix VI.

The focus on the rights and responsibilities of families in Alberta communities, provides an opportunity for Albertans to participate in this international process, and to provide input on this important issue. By learning how other countries, communities, and organizations are addressing these issues, an opportunity is provided to "think globally, act locally" in choosing ways to enhance and support family life.

An Invitation to Participate

The Premier's Council in Support of Alberta Families would appreciate hearing from you about your perspective on the rights and responsibilities of families. Write to the Chairman of the Council at the address below, or phone for a local contact to assist you in getting involved in IYF activities in your own community and region.

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Call toll free by dialing 310-0000 from anywhere in Alberta. Persons who are deaf or hearing impaired may call 427-9999 in Edmonton, and 1-800-232-7215 in other locations.

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Appendix I - The Legal Framework of the Transition to Adulthood in Alberta

Birth

- every live birth and stillborn child in Alberta shall be registered, including deserted newborns.
- child has a right to apply for a determination of parentage.
- right to maintenance (adequate food, lodging, clothing, and medical care from parents, guardian(s), until age 16, and until age 18, if attending school.
- right to be protected from corruption, until age 18.
- right to protection from abduction, until child reaches 14 years old.
- right to own property, and to have Dower rights protected, if married.
- right to have his or her assets and interest in real property protected by the public trustee, until age 18. Income from assets held in trust by the public trustee may be released to the parent or guardian, at the discretion of the public trustee, to be used for the education or maintenance of the child.
- right to protection from abuse or neglect, until age 18.
- may not work for a business until age 12, although a child may do casual work such as babysitting, newspaper deliveries, or lawn care as soon as anyone is willing to hire him or her.
- may not marry until age 16, unless the girl is pregnant or is the mother of a living child.

- parents have a right to consent or withhold consent for medical or mental health treatment on behalf of their child, until age 18, unless the child has sufficient understanding of the treatment and its consequences to give valid consent.
- until age 12, children are not considered criminally responsible for their actions. Children under 12 who violate the criminal law are to be dealt with by their parents, or through provincial child welfare legislation.
- right to protection from sexual interference, until child is 14 years old.
- children under 12 are never considered able to consent to any sexual contact or activity.
- children under 18 are never considered able to consent to anal intercourse, unless the two individuals involved are husband and wife.
- if the child is the subject of a secure treatment order, the child is entitled to get a copy of the order, request a lawyer, apply for a review, get notice of a review, and appeal to Queen's Bench.
- if the child is the subject of a secure treatment certificate, the child is entitled to get a copy of the certificate.
- right to request legal representation when the child is the subject of proceedings under the Child Welfare Act, and to appeal Child Welfare decisions to the Appeal Panel.

At Age 6

- must attend school from ages 6 to 16, unless medically ill or educated at home by parents.
- every child who is 6 years old on September 1, and less than 18 years old on September 1, has a right of access to education.

At Age 12

- right to give or withhold consent to change of name.
- may be charged for violations of any federal or provincial law under the *Young Offenders Act*.
- parents have right to be notified, as soon as possible, if their child is arrested under the *Young Offenders Act*.
- child has a right to representation by a lawyer at a Youth Court on a charge under federal law.
- from age 12 to 15, a child may not work for a business without written permission from his or her parents may not work at night between 9 p.m. and 6 a.m.
- from age 12 to 15, with permission from parents may work up to 2 hours on school days and 8 hours on weekends or holidays, if the job does not harm the child's health, education, or general well-being.
- may consent or withhold consent to the relinquishment of guardianship by a guardian, unless the Court decides it is in the best interest of the child to proceed without the child's consent.
- may consent or withhold consent for adoption and permanent guardianship orders, unless the Court decides that it is in the best interests of the child to proceed without the child's consent.
- may consent or withhold consent for a joint or private guardianship order, and for the termination of a private guardianship order, unless the Court decides that it is in the child's best interests to proceed without the child's consent.
- may apply for an access order, if the child is under a temporary guardianship order or a permanent guardianship order under the *Child Welfare Act*.

- may consent or withhold consent for access by a non-guardian when under a guardianship order.
- must be served notice of an a Court hearing, under the *Child Welfare Act*.
- child may engage in sexual behaviour with a person under 16 years of age, if they are less than 2 years apart in age, and both consent, and neither is in a position of trust in relation to the other, such as a coach or babysitter.

At Age 14

- if charged with a serious offence, the prosecutor may apply for a transfer to adult Court.
- may drive farm equipment on the highway.
- right to consent or withhold consent for disposition of his or her property.
- may get a learner's license.
- may be consulted in custody and access decisions.
- child may give or withhold consent for sexual behaviour, including intercourse as long as neither person is in a position of trust in relation to the other, and the individuals are not blood relatives.
- child 14 and over can be held criminally responsible for sexual offenses.

At Age 15

- young persons aged 15 or over but less than 18, may work for most businesses except underground in a mine.
- may not work between 9 p.m. and midnight in a restaurant , bar, gas station, store, hotel or motel, unless they have adult supervision.

- may not work between midnight and six in the morning in a restaurant, bar, gas station, store, hotel or motel.
- may work in a business other than the list above between midnight and six in the morning if they have written permission from their parent or guardian and work with and are in the continuous presence of at least one adult.

At Age 16

- may get a driving license, if self-supporting, married, or with consent of parent(s) or guardian.
- may enter into a student loan, contract for insurance or consent to insurance on his/her own life.
- may enter into an agreement for support services or for custody under the *Child Welfare Act*, if living independently.
- may operate and carry passengers on a moped, scooter, or power bicycle.
- may marry, with consent from parents, or may apply for a Court order to marry without parental consent.
- may request voluntary mental health care.
- may choose not to attend school.
- may request access to own student file at school.
- may appeal any education decision to the School Board.
- must be notified of actions such as expulsion or suspension from school.
- may request in writing that the Minister review every decision of the School Board in relation to expulsion, fees, special education, placement, or certain other matters.

- if child is an independent student under the definition in the *School Act*, (living independently, or under a support agreement under the *Child Welfare Act*, or receiving a Social Allowance from Family and Social Services), then the student has all the rights and responsibilities that the parent would have, such as to access the student file and to receive notice of school board actions, and the parent can no longer exercise these rights.

At Age 17

- may work underground in a mine.
- may join the armed forces, with parental consent.
- may donate blood.

At Age 18

- child reaches the legal age of majority and becomes an adult in terms of the law.
- may get a driving license.
- may vote.
- may be nominated as a candidate in a provincial election.
- may serve as a juror.
- may apply to change his or her name.
- may donate an organ.
- assumes responsibility for sexual self-determination.
- may buy and possess liquor.

- child becomes an independent student and is entitled to exercise all the rights and powers and receive all benefits of a parent under the School Act and the parent can no longer exercise those rights.
- if an adopted person, may apply for a copy of the adoption order, and may register for contact with other interested persons.
- responsible, as a adult, for offenses under the Criminal Code, unless the offenses were committed as a minor.
- if the child is in jail for criminal offenses, the prosecutor can apply to have him or her moved to adult jail.

Married Minor

- a minor who is 16 or 17 and married may obtain a drivers permit without parental consent.
- when a child marries, any temporary or permanent guardianship order terminates.
- a minor who has married has all the rights contained in the *Dower Act*, and is for the purposes of the *Act*, an adult.

Minor Parent or Guardian

- a female who is pregnant or the mother of a living child may apply to the Court for permission to marry with or without parental consent.
- may make binding agreements under the *Child Welfare Act* as if the parent or guardian had attained 18 years of age.

- is subject to the provisions of the *Child Welfare Act* as if the parent or guardian had attained 18 years of age, although the Court may appoint the Public Trustee or other persons to protect the interests of the minor parent in proceedings before the Court.
- a minor parent may apply for a declaration of parentage, or for an order directing child support payments under the *Parentage and Maintenance Act*.
- may file a maintenance order for enforcement.

Appendix II - Legislation Related to the Child's Transition to Adulthood in Alberta

Alberta Justice Department

February, 1993

Birth

Age	Right/ Responsibility	Act	Section
Birth	The birth of every child born in Alberta shall be registered.	Vital Statistics Act	s.3
Birth	Every stillborn child shall be registered with the Province.	Vital Statistics Act	s.8

Tender Years

Age	Right/ Responsibility	Act	Section
Tender Years	Child may give evidence without being under oath if, in the opinion of the judge, he/she understands the duty of speaking the truth.	Alberta Evidence Act	s.20

Child			
Age	Right/ Responsibility	Act	Section
Child	May benefit from a recovery of damages arising from adultery or a settlement of property.	Domestic Relations Act	s.13
Child	Right to maintenance.	Domestic Relations Act	ss.21,23, 24
Child	Right to \$3000 upon death of a parent.	Fatal Accidents Act	s.8(2)(c)
Child	May be entitled to compensation as dependent child.	Workers' Compensation Act	ss.65,66, 67,69,70
Child	May be entitled to Workers' Compensation benefits.	Workers' Compensation Act	s.44
Child	May make application for custody order with or without any person interested on his behalf.	Provincial Court Act	s.32(2)(b)
Child	Right to travel to and from school on a ferry or a cable car without being charged a toll.	Public Highways Development Act	s.53
Child	May be provided with social assistance if unemployed and in need, and who by reason of age is incapable of earning an income sufficient to pay for basic necessities - right to proper care.	Social Development Act	s.8.9 s.1(j) s.9

Minor			
Age	Right/ Responsibility	Act	Section
Minor	A child has the right to be legitimized by the marriage of his parents subsequent to his birth.	Vital Statistics Act	s.5
Minor	A deserted newborn can be registered.	Vital Statistics Act	s.6
Minor	Any adopted child shall be registered with the province.	Vital Statistics Act	s.9
Minor	Minor can apply through next friend, for an Order regarding custody and access and guardianship.	Domestic Relations Act	s.56 s.50
Minor	Dependent minor child has right to receive payment for death benefit and further amount equal to current service contributions and any other prescribed employee contribution with interest.	Public Service Management Pension Plan Act/Public Service Pension Plan Act	s.29 s.29
Minor	Right to additional death benefits.	Local Authorities Pension Plan Act	s.29
Minor	Treatment decisions regarding mental health are made by guardian or nearest relative.	Mental Health Act	s.28
Minor	Right to additional death benefits.	MLA Pension Plan Act	s.25
Minor	Has the right to receive contributions from the pension plan of a pensioner who dies.	Special Forces Pension Plan Act	s.28(b)

Minor			
Age	Right/ Responsibility	Act	Section
Minor	Has the right to receive a pensioner's current service contributions.	Special Forces Pension Plan Act	s.29(1)
Minor	A devise to a child who dies before the testator does not lapse.	Trust Companies Act	ss.34,35
Minor	May exercise ownership rights in a corporation he has securities in.	Business Corporations Act	s.47
Minor	Any disposition of land by or to a minor is binding as if he were of full age.	Public Lands Act	s.41
Minor	An illegitimate child has the right to receive any gift devised to him.	Wills Act	s.9(1-4)
Minor	May file maintenance order. May commence, conduct or defend enforcement proceeding.	Maintenance Enforcement Act	s.30
Minor	Parent includes under 18 years "child" may apply for order declaring x=parent; for order directing payments.	Parentage and Maintenance Act	s.2 s.7(2)
Minor	Has capacity to contract for the necessities of life.	Sale of Goods Act	s.4
Minor	Can be elected or admitted to a Society and is liable for fees and to obey any by-laws as if he were an adult.	Societies Act	s.6

Minor

Age	Right/ Responsibility	Act	Section
Minor	Has the right not to be discriminated against by an employer due to age.	Individual Rights Protection Act	s.7
Minor	Protected from discrimination, due to age, by a trade union or employer organization.	Individual Rights Protection Act	s.10
Minor	May sue for wages in the same way as if they were an adult.	Judicature Act	s.42
Minor	Right to have assets protected but no right to do so on own behalf, through Public Trustee instead - assets paid to/ transferred to Public Trustee.	Public Trustee Act	ss.7, 4(g), 4(h) s.6
Minor	Has right to have Public Trustee act on his/her behalf in the event of application for a grant by someone else in an estate in which a minor may have interest.	Administration of Estates Act	ss.6(1)(a), 6(2)
Minor	Every conveyance whether effected by minor or person appointed to effect, is made as if minor had been an adult.	Minor's Property Act	s.5
Minor	Minor in contemplation of marriage can, with Court's approval, make valid and binding contract as if minor were an adult.	Minor's Property Act	s.12
Minor	Right to have settlement made or action maintained re: injury to minor via guardian, or Public Trustee.	Minor's Property Act	s.15
Minor	May not be registered to solemnize marriage.	Marriage Act	s.3

Minor

Age	Right/ Responsibility	Act	Section
Minor	May not be appointed as marriage commissioners.	Marriage Act	s.7 s.9
Minor	May not be witnesses to marriage.	Marriage Act	s.18
Minor	Needs consent of father and mother to marry, or the Director of Child Welfare or Court of Queen's Bench.	Marriage Act	s.19
Minor	Limitation of action (for damages v. Registrar) extended to 6 years from date of adulthood (i.e., cannot sue as minor, but limitation period continues until adulthood).	Marriage Act	
Minor	May be represented by Administrator without next friend/Guardian ad litem.	Motor Vehicles Accident Claims Act	s.6(11)
Minor	Income from property held in trust is not payable directly to minor; must be paid to parent/guardian.	Trustee Act	s.34(1)(a)
Minor	Can be a member of a Credit Union.	Credit Union Act	s.1(ii)
Minor	Voting restriction.	Credit Union Act	s.60(4)(d)
Minor	Minor can contract with Credit Union respecting deposits and repayments.	Credit Union Act	s.113

Minor

Age	Right/ Responsibility	Act	Section
Minor	Liable for payments of all proper charge for services provided. Minor and parents/guardians/spouse.	Hospitals Act	s.46
Minor	Not entitled to extension of limitation period if in actual custody of parent/guardian.	Limitations of Actions Act	s.59
Minor	May not be issued a license or permit.	Liquor Control Act	s.43
Minor	If appears to be a minor may be demanded to produce proof of age.	Liquor Control Act	s.73
Minor	May have liquor in residence, provided by parents/guardian/spouse of minor.	Liquor Control Act	s.74(1)(c)
Minor	Liquor may be provided to a minor if prescribed by a doctor.	Liquor Control Act	s.74(1)(b)
Minor	Liquor may be provided to a minor by a Minister for religious purposes.	Liquor Control Act	s.74(2)
Minor	May not buy liquor.	Liquor Control Act	s.86(1)(a)
Minor	May not possess it (subject to s.74).	Liquor Control Act	s.86(1)(b)
Minor	May not be in liquor store unless accompanied by parent/guardian.	Liquor Control Act	s.86(2)
Minor	May deposit his money in a trust company in his own name.	Trust Companies Act	s.205
Minor	Has the right to have any interest he may possess in real property protected by the Public Trustee.	Devolution of Real Property Act	s.14
Minor	May not acquire a timber license, quota or permit.	Forest Act	s.24
Minor	If married has all the rights contained in the Dower Act and is, for the purposes of the Act, an adult.	Dower Act	All

Age 6

Age	Right/Responsibility	Act	Section
6 years	May become members.	Women's Institute	s.35(4)

Age 12

Age	Right/Responsibility	Act	Section
12 years	Child's name cannot be changed without consent of the child.	Change of Name Act	s.4
12 years	Females may under this Act form girl's club.	Women's Institute	s.35(1)

Age 14

Age	Right/Responsibility	Act	Section
14 years	The Crown, the young person or the young person's counsel may apply to the court for transfer of the trial of a child 14 or over to adult court.	Young Offenders Act	s.16
14 years	Can drive farm equipment on highway.	Highway Traffic Act	s.13(1)
14 years	Must consent to disposition of minor's property.	Minor's Property Act	s.3
14 years	Can get learner's license.	Motor Vehicles Administration Act	s.9

Age 16

Age	Right/Responsibility	Act	Section
16 years	An independent student as defined in the School Act (living independently or party to a support agreement) has the same rights a parent would have, such as access to the student record and notice of suspension or expulsion, and the parent cannot exercise those rights.	School Act	s.1(1)(h) s.1(3)
16 years	Has capacity of adult to contract for insurance.	Insurance Act	s.271,364
16 years	May become an apprentice	Manpower Development Act	s.1
16 years	Eligible to be a member of a co-operative.	Co-operatives Association Act	s.21
16 years	May be a member of a rural utilities association.	Rural Utilities Act	s.10(1)(a)
16 years	May hunt with a firearm (under 16 must be accompanied by parent/legal guardian/adult).	Wildlife Act	s.33
16 years	Females may form and incorporate a Women's Institute.	Women's Institute	s.9
16 years	Can get a driver's license if self-supporting, married or has consent of parents/guardian.	Motor Vehicle Administration Act	s.11
16 years	Can operate and carry passengers on a scooter, moped or power bicycle.	Highway Traffic Act	s.145
16 years	Can consent to insurance placed on his/her life.	Insurance Act	s.247

Age 16

Age	Right/Responsibility	Act	Section
16 years	Student may appeal to the School Board, any decision of any employee of the School Board that significantly affects the student's education.	School Act	s.103
16 years	May request in writing that the Minister review a decision of the School Board regarding expulsion, special education placement, home education, fees, or certain other matters.	School Act	s.104
16 years	Has a right to receive written notice of the right to request that the Minister review their expulsion from school.	School Act	s.19
16 years	Has a right of access to his or her student file at school.	School Act	s.18
16 years	May enter into an agreement for support services or custody, if in need of protective services, and the survival, security, and development of the child can be adequately protected through the agreement, and if the child is living independently of his or her guardian.	Child Welfare Act	s.7(2),8(2)

Age 16 to 17

Age	Right/Responsibility	Act	Section
16 to 17 years	A student under 18 who enters into a Student Loan is bound by that loan as if they were 18.	Student Loan Guarantee Act	s.6

Age 17

Age	Right/Responsibility	Act	Section
17 years	Can work underground in a mine.	Coal Mines Safety	s.36

Age 18

Age	Right/ Responsibility	Act	Section
18 years	May vote to create a Drainage District or elect a trustee.	Drainage District Act	s.89
18 years	Is eligible to vote and have name placed on a list of electors.	Election Act	s.23
18 years	Is eligible to be nominated as a candidate in a provincial election.	Election Act	s.52
18 years	A child's registered birth name can be changed.	Vital Statistics Act	s.7
18 years	A person can make a valid will.	Wills Act	s.9(1)-(4)
18 years	Becomes eligible to be elected or appointed a director of a provincial trust company.	Trust Companies Act	s.29(3)
18 years	May serve as juror.	Jury Act	s.3
18 years	Eligible to be elected to the Board of the Lloydminster Hospital.	Lloydminster Hospital Act	s.35
18 years	Eligible to become a lessee of a mineral agreement.	Mines and Minerals Act	s.24

Age 18 (continued)

Age	Right/ Responsibility	Act	Section
18 years	May sign a petition for instituting a local improvement.	Municipal Taxation Act	s.159
18 years	May sign a petition for the foundation of a Drainage District.	Drainage District Act	s.5
18 years	May become a trustee of a Drainage District.	Drainage District Act	s.13
18 years	May be transferred to adult facility to serve disposition or balance of disposition.	Young Offenders Act	s.24
18 years	May be tried as youth if offence was committed as youth, even after attaining majority.	Young Offenders Act	s.5
18 years	May be a director, manager or treasurer of an association.	Public Utilities Act	s.10(1)(b)
18 years	Eligible to apply for a lease.	Public Lands Act	s.71
18 years	May act as a by-law agent under the Act.	Local Authorities Election Act	s.70
18 years	May vote in an election held in a summer village.	Local Authorities Election Act	s.11
18 years	May vote in an election held under the Act.	Local Authorities Election Act	s.47
18 years	May act as a candidate's agent in an election.	Local Authorities Election Act	s.69
18 years	May become a director in a corporation.	Business Corporation Act	s.100
18 years	Eligible to become a licensed dentist.	Dental Profession Act	s.19
18 years	Eligible to be registered as a dental mechanic.	Dental Mechanics Act	s.15
18 years	Eligible to receive handicap benefits.	Assured Income for Severely Handicapped	s.4(2)(a)
18 years	Child ceases to be a minor and attains the age of majority (becomes an adult).	Age of Majority act	s.1
18 years	Child becomes an independent student and is entitled to exercise all the rights and powers and to receive all the benefits under the School Act of a parent and the parent can no longer exercise these rights.	School Act	s.1

Age 18 (continued)

Age	Right/ Responsibility	Act	Section
18 years	Any reference to the age 21 in a legislation enacted before July 1, 1971 shall be read as referring to the age 18.	Age of Majority Act	ss.4(1),5,6
18 years	Can apply to change name.	Change of Name Act	s.2
18 years	Can be a member and shareholder of a Co-operative Association and may exercise all rights of a member/ shareholder.	Co-operative Associations Act	s.21(7)
18 years	Can be a director, manager or treasurer of a Co-operative Association.	Co-operative Associations Act	s.21(7)
18 years	If the person is an adopted person, may request a copy of the adoption order, and may register for contact with birth parents or other interested persons.	Child Welfare Act	s.66(7) s.66.1

Birth to 6 Years

Age	Right/ Responsibility	Act	Section
Birth to 6 years	Individuals less than 6 years old on September 1 may be 'permitted' by the School Board to attend.	School Act	s.3(2)

Birth to 14 Years

Age	Right/ Responsibility	Act	Section
Birth to 14 years	Right to protection from sexual interference from all persons over 14 years.	Criminal Code	ss.150, 151,152, 153,160, 173
Birth to 14 years	Right to protection from abduction.	Criminal Code	s.281

Birth to 15 Years

Age	Right/ Responsibility	Act	Section
Under 16 years	Cannot marry unless pregnant/mother.	Marriage Act	ss.16(1), 16(2)
Birth to 15 years	Right not to be wrongfully removed from their home jurisdiction.	International Child Abduction Act	Articles 1, 4

Birth to 16 Years

Age	Right/ Responsibility	Act	Section
Birth to 16 years	Right to maintenance (adequate food, clothing, medical aid and lodging).	Maintenance Order Act	s.2(2)
Birth to 16 years	Right to necessities from parent/foster parent/guardian/head of family.	Criminal Code	s.215

Birth to 17 Years

Age	Right/ Responsibility	Act	Section
Under 18 years	Dower rights if married.	Dower Act	s.26

Birth to 18 Years

Age	Right/ Responsibility	Act	Section
Up to 18 years	Death benefit payments to dependent spouse for benefit of dependent children until youngest reaches 18 years.	Workers' Compensation Act	s.64
Birth to 18 years	Right to be protected from corruption.	Criminal Code	s.172
Birth to 18 years	Right to request a lawyer if an application is made for a supervision order, temporary or permanent guardianship order, or if the child is the subject of an order, and involved in a proceeding under the Act.	Child Welfare Act	s.78
Birth to 18 years	Right to appeal a Child Welfare decision to the Appeal Panel.	Child Welfare Act	s.7,8
Birth to 18 years	If subject of a secure Treatment Order, has the right to: • receive a copy of the order • receive notice of any review • request a review of the order • request a lawyer • Appeal to Queen's Bench	Child Welfare Act	s.42(2) 42(6)(6) 47(1) 47(5)48(3)
Birth to 18 years	A child who is the subject of a secure treatment certificate shall be given a copy of the secure treatment certificate not more than 1 day after it is issued.	Child Welfare Act	s.41(4)
Birth to 18 years	Every school teacher, parent, or person standing in the place of a parent is justified in using force by way of correction of a pupil or child who is under his or her care, if the force does not exceed what is reasonable under the circumstances.	Criminal Code	s.43

Birth to 18 Years (continued)

Age	Right/ Responsibility	Act	Section
Birth to 18 years	A police officer or child welfare worker may apprehend a child without an order if he has reasonable grounds to believe the child has left or been removed from the custody of his or her guardian without the consent of the guardian.	Child Welfare Act	s.17(11)

6 to 16 Years

Age	Right/ Responsibility	Act	Section
6 to 16 years	Compulsory education.	School Act	s.8

6 to 18 Years

Age	Right/ Responsibility	Act	Section
6 to 18 years	Every individual 6 years of age on September 1, and less than 18 years old on September 1 has a right to access to an education.	School Act	s.3(1)

12 to 14 Years

Age	Right/ Responsibility	Act	Section
12 to 14 years	Adolescents 12 years old or older but less than 15 years old may be employed as a clerk, delivery person, or in a similar position. Written permission from the parent or guardian is required. No adolescent may work between 9 p.m. and 6 a.m. The adolescent may not work more than 2 hours on a school day, or 8 hours on a weekend or school holiday.	Employment Standards	s.68,69 Order in Council #170/81 Regulation #82/81

12 to 18 Years

Age	Right/ Responsibility	Act	Section
12 to 18 years	Right to have privacy protected: no publishing of name.	Young Offenders Act	s.38
12 to 18 years	May be required to attend for fingerprinting.	Young Offenders Act	s.44
12 to 18 years	Right to have records destroyed.	Young Offenders Act	s.45
12 to 18 years	Right to retain counsel.	Young Offenders Act	s.11
12 to 18 years	May consent or withhold consent for a Permanent Guardianship Order, if the guardian applies to relinquish guardianship, unless the court decides it is in the best interests of the child to dispense with the child's consent.	Child Welfare Act	s.32(2)(b) s.32(2.1)
12 to 18 years	May apply for an order regarding access while under a temporary guardianship order or a permanent guardianship order, and maintenance when under a temporary guardianship order.	Child Welfare Act	s.32(6) s.29(4)
12 to 18 years	Must consent or withhold consent for a access by non-guardian including access by another child.	Child Welfare Act	s.32(6.1) s.29(4.1)
12 to 18 years	May apply for review of order.	Child Welfare Act	ss.32(8), 47
12 to 18 years	Must be served with notice of Appeal.	Child Welfare Act	ss.80,86

12 to 18 Years

Age	Right/ Responsibility	Section	Act
12 to 18 years	May consent or withhold consent for adoption, unless the Court decides that it is in the best interests of the child to dispense with the child's consent.	Child Welfare Act	s.56 63(4)(6)
12 to 18 years	May consent or withhold consent for a joint guardianship order, a private guardianship order, or the termination of a private guardianship, unless the court decides that it is in the best interest of the child to dispense with the child's consent.	Child Welfare Act	s.34(3)(c) s.52(1)(b) s.54(4) s.52(2)(b)

15 to 18 Years

Age	Right/ Responsibility	Act	Section
15 to 18 years	Young persons 15 years old or older but under 18 years old may work in most businesses. However, a young person must be supervised by an adult if working between 9 p.m. and midnight in a restaurant, bar, store, gas station, hotel, motel, or related business. A young person may not work in those businesses between midnight and 6 a.m. In businesses other than a restaurant, bar, store, gas station, hotel, or motel, a young person may work between midnight and 6 a.m. if he or she is working with and in the continuous presence of at least one adult, and if the young person has written permission from his or her parent or guardian.	Employment Standards Act	s.68,69 Order in Council #170/81 Regulation #82/81

Minor Parent

Age	Right/ Responsibility	Act	Section
Minor parent	Any guardian of a child who is under 18 may make agreements under the Child Welfare Act which are as valid as if the person had attained the age of 18.	Child Welfare Act	s.13
Minor parent	The Child Welfare Act is applicable to a parent who is a guardian of a child, even if the parent or guardian is under 18 years of age. The Court may appoint the Public Trustee or any other person to safeguard the parents' or guardians' interests in any proceedings before the Court.	Child Welfare Act	s.90
Minor parent	A person who is pregnant or the mother of a living child may apply to court for permission to marry without parental consent.	Marriage Act	s.16

Married Minor

Age	Right/ Responsibility	Act	Section
Married minor	Any temporary or permanent guardianship order terminates when the child marries.	Child Welfare Act	s.38
Married minor	A minor who is 16 or 17 years old and married may get a drivers licence without the parent's consent.	Motor Vehicle Registration Act	s.11
Married minor	A married minor has all the rights contained in the Dower Act and is for the purposes of the Act an adult.	Dower Act	All

Appendix III

Child Welfare in Alberta

Child Welfare

Further information on Child Welfare Act and Child Welfare services is available in the following brochures, which are available from your local Child Welfare district office or from the following address:

Public Communications
Alberta Family and Social Services
10th Floor, Seventh Street Plaza
10030 - 107 Street
Edmonton, Alberta

Phone: 427-4801 in Edmonton. Call toll free by dialing 310-0000 from anywhere in Alberta. Persons who are deaf or hearing impaired may call 427-9999 in Edmonton, and 1-800-232-7215 in other locations.

- Child Welfare and You: Protecting our Children
- Child Welfare: Does Your Child Need Protection
- Child Welfare and the Professional: When a Child Needs Protection
- Private Guardianship
- Joint Guardianship
- Foster Care: Help Alberta's Children . . . Become a Foster Family
- You Were Asking About. . .
 - Your rights and duties
 - Apprehension
 - Support Agreements
 - Custody Agreements

- Care and Maintenance Agreements
- Child Welfare Court Hearings
- Supervision Orders
- Temporary Guardianship
- Permanent Guardianship
- Secure Treatment
- Permanent Guardianship Agreements
- Special Needs Adoption
- Post Adoption Support
- Child Welfare Files

Child Welfare Appeal Process

If you wish further information about how to appeal Child Welfare decisions you can request the pamphlet on appeals from the address above:

- Child Welfare Decisions: Your Right to Appeal

You could also contact the Appeal and Advisory Secretariat for further information at:

Appeal and Advisory Secretariat
Alberta Family and Social Services
6th Floor, Centre West Building
10035 - 108 Street
Edmonton, Alberta
T5J 3E1

Phone: 427-2709 in Edmonton. Call toll free by dialing 310-0000 from anywhere in Alberta. Persons who are deaf or hearing impaired may call 427-9999 in Edmonton, and 1-800-232-7215 in other locations.

Children's Advocate

A Children's Advocate has been appointed with a mandate to receive and investigate concerns about children who are receiving services under the *Child Welfare Act*, to represent the rights and viewpoints of children receiving services under the Act, to advise the Minister in relation to the welfare and interests of children receiving services under the *Child Welfare Act*, and other related duties.

To ask the Children's Advocate to make sure a child receiving Child Welfare services is listened to, call 1-800-661-3446.

Appendix IV

Adoptions in Alberta

The following booklets on adoption are available from your local Child Welfare District Office or from the following address:

Public Communications
Alberta Family and Social Services
10th Floor, Seventh Street Plaza
10030 - 107 Street
Edmonton, Alberta

Phone: 427-4801 in Edmonton. Call toll free by dialing 310-0000 from anywhere in Alberta. Persons who are deaf or hearing impaired may call 427-9999 in Edmonton, and 1-800-232-7215 in other locations.

- Adoptions in Alberta
- You Were Asking About ...
 - Special needs adoption
 - Post adoption supports
 - Permanent Guardianship Agreements
- Facts about the Post Adoption Registry

In addition, a Self-Help Kit for Spousal Adoption is available from the Queen's Printer.

Appendix V

Employment Standards

The following pamphlet provides more details on the Employment Standards Code of Alberta:

- Employment Standards Guide

This resource is available from your local Employment Standards Regional Office listed in your local telephone directory under Government of Alberta.

Appendix VI - Guiding Principles on the Family

NGO Committee on the Family

United Nations Vienna International Centre



COMMITTEE ON THE FAMILY

UNITED NATIONS - VIENNA INTERNATIONAL CENTRE
INTERNATIONAL YEAR OF THE FAMILY - 1994



Executive Secretary: Ingrid Gelinek
A-1010 Vienna, An der Hülben 1/15
Tel.: (431) 513 86 87. Fax: 512 16 38 75

Account: 0937-400 41/00 -
Creditanstalt Bankverein - VIC

GUIDING PRINCIPLES ON THE FAMILY

This outline is presented to all interested non-governmental organizations, governments and UN bodies as an instrument to facilitate further consideration of a possible declaration on the rights and responsibilities of families.

Board members

Mr. D. Callagy ICCB (Chairperson)
Mr. H. Schattovits IUFO (Secretariat)
Mrs. I. Spritzendorfer IFBPW (Treasurer)
Mrs. E. Baum-Breuer IFSW
Mr. P. Crowley ICAA
Mrs. Ch. Kasmayer IEF
Mrs. Ch. Leopold Int'l Kellogg Society
Mrs. S. Papp IPPF

Mrs. Ch. Quintano Canales WLRA
Mrs. H. Rosenmayr WLCVO
Mrs. D. Schonegger IRTAC
Mrs. M. Tudy FFE
Mrs. P. Varkatargian A. India Womens' Cent.
Mrs. M. Vyslouzil IFSW
Mrs. A. Weger AC/NIN

FOREWORD

In 1985 the Non-Governmental Organizations Committee on the Family based at the UN in Vienna created Working Group 2: "Family Charter/Family Rights", with the specific purpose of studying a possible declaration on the family.

This group, encouraged by the United Nations General Assembly Resolution to proclaim 1994 as the International Year of the Family, has prepared the following document entitled "Guiding Principles on the Family" (GPF).

Prior to the discussions, a survey was made of 58 United Nations documents on 26 topics, called "The Family and Human Rights". Hence, many paragraphs in the GPF recall the basic principles of the United Nations and specific provisions of certain relevant human rights treaties and covenants.

In an effort to avoid further duplications, the "Guiding Principles on the Family" does not quote the elements and sections on families as stated in the UN Convention on the Rights of the Child (1989), the UN Convention on the Elimination of All Forms of Discrimination against Women (1990) and the Geneva Convention on Refugees (1951). The "Guiding Principles on the Family" acknowledges these documents as accepted and as already covering those elements not dealt with in the GPF.

The GPF also includes part of a previous paper discussed by the Group: "Basic Tenets for Strengthening the Family", which was adopted unanimously by the Vienna NGO Committee on the Family.

In the GPF no definition of the family is given because of the great variety of types, cultures and customs existing in families throughout the world and because it is felt that, starting from this document, the different ethnic and cultural groups will develop their own image of the family prevailing in their particular society and culture.

The "Guiding Principles on the Family" drafted by NGOs reflects their ideas about the functions, responsibilities and rights of the family. Such a document might serve as the basis for a declaration to be adopted by the General Assembly of the United Nations as one of the objectives of the International Year of the Family 1994.

This document was prepared by Working Group 2 and discussed in various Full Committee Meetings (in particular on June 3rd and November 18th, 1991). It was then reformulated by Working Group 2 in several meetings, the last one concerning the articles in Brussels on July 4th and 5th, 1992. The resulting draft text was then presented to the Board of the Vienna NGO Committee on the Family. At its meeting on December 16th, 1992 the Board discussed the draft text, supplemented it with some amendments and decided to approve and issue the "Guiding Principles on the Family".

Several NGOs and individual persons contributed to the document.

The permanent members of Working Group 2 were:

Lily BOEYKENS, ICW

Geneviève GRANGY, A.I.C.

Canon Joseph MOERMAN, ICCB

Elena MORAIS-NEVES, PRODEFA

Sunetra PURI, IPPF

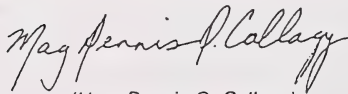
Rosina SANTA OLALLA, PRODEFA

Helmuth SCHATTOVITS, IUFO, Chairperson

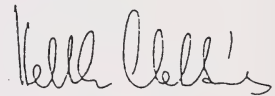
Andrée THOMANEK, A.I.C.

Rosy WEISS, IAW

The Board of the Vienna NGO Committee on the Family recognizes the "Guiding Principles on the Family" as a working paper and offers it in the hope that it may serve as a useful tool especially for Member States in the elaboration of a possible United Nations declaration on family rights and responsibilities, in particular on the occasion of the International Year of the Family (IYF), 1994.



*(Mag. Dennis O. Callagy)
Chairman of the Vienna
NGO Committee on the Family*



*(Dr. Helmuth Schattovits)
Chairman of Working Group 2*

Vienna, January 1993

PREAMBLE

Society is formed by a plurality of entwined groups and entities and a multitude of individual persons, with their own specific objectives and purposes. Among these groups, families are the basic social unit and are acknowledged to be among their society's fundamental and most important characteristics.

For, in all countries, at all times and in all civilizations, the family, regardless of its form and organization, is recognized as a social reality and as an essential element for development.

The term "family" covers a wide range of structures, types, values and functions. These differ within countries and from region to region. In every society the family is continuously evolving and changes occur as its members pass through the different stages of their life cycle.

The family aims to provide a source of mutual love, respect, solidarity and affection and to act as a support system for the individual rights of its members. Families are the setting where values are transmitted from one generation to another.

Families also play a fundamental role as intermediate bodies between the individual and the state and other social agents.

The family is a powerful agent for social, political, economic and cultural change and a potential vehicle for development. However, the family can also be influenced by the nature and pace of change, which often exerts pressure on families. Such forces can make the family extremely vulnerable and in need of support from other institutions.

Therefore, the family should be granted protection and assistance so that it can fully assume its responsibilities as the basic unit of society, the natural environment for its members, particularly children and youth, and in many cases, as the only support system for the ageing and the disabled.

For this purpose, policies and appropriate legislation for the promotion and strengthening of families should be a priority concern of national governments and intergovernmental organizations.

The role and contribution of the concerned non-governmental organizations in strengthening the family should also be stressed at all levels.

The proclamation of the International Year of the Family 1994 is a consequence of the particular appreciation for the family shown by the United Nations and a proof of its intention to give stronger support to families as the basis of society.

In fact, over the years various United Nations policies and strategies have been formulated which support and strengthen the family unit. One of the earliest statements about families is contained in the Universal Declaration on Human Rights, which states that "the family is the fundamental group unit of society and is entitled to protection by society and the State".

Many other international legal documents repeatedly declare that the family is the basic unit of society and that, as such, it should be protected and assisted by society and the State.

It might therefore be desirable to embody all these references to the family in a coherent and detailed declaration on the functions, responsibilities and rights of the family, as one of the objectives of the International Year of the Family 1994, on the understanding that rights already established by the United Nations should in no way be restricted in such a declaration.

Family formation

Article 1

1. The best conditions should be promoted for family formation and family life.
2. The free and full consent of the partners should be secured when entering a union as a basis of a family. A minimum age for entering such a union should be fixed by law.

Respect for all types of families

Article 2

Regional, national and cultural differences in all types of families should be respected and discrimination among them avoided. This respect and non-discrimination should aim at the dignity of the family, the protection of family life and the full development of individual family members.

Article 3

Respect should be shown for the religious, philosophical and ethical values or political opinions of each family member and for his or her freedom to manifest, as a family or in community with others, their culture and religion.

Autonomy and support of family functions

Article 4

All families have the right and the responsibility to freely organize their internal functioning, taking into account the best interest of each of their members.

Article 5

1. Legislation which has a direct bearing on the welfare of families and their members should be flexible and periodically reviewed and adapted to the changing social, cultural and economic conditions, in particular with a view to the concept of equality between women and men.
2. Social welfare programmes and activities should be designed to strengthen and revitalize families in their functions.
3. All policies, at national and international levels, in developing as well as in industrialized countries, should take into account their impact on families.

Family needs

Article 6

It should be recognized that families need an adequate standard of living to meet their basic human needs and for the physical, mental, spiritual, ethical, cultural and social development of their members and as a family.

Article 7

The special needs of disadvantaged families should be addressed and help given to them to overcome their adversity. The following should receive special economic and social protection:

- Disadvantaged families in rural and poor urban areas;
- Families confronted with special problems - e.g. disabled members, inability to obtain gainful employment, low income, dependent ageing members, large families and single parent families;
- Young people taking up family responsibilities;
- Families affected by war and environmental disasters, and for political and economic reasons.

Parenthood

Article 8

1. Parents have the basic right to determine freely and responsibly the number and spacing of their children as well as to have access to the knowledge and means necessary to enable them to exercise this right.
2. Family-planning programmes should direct information and services towards men and women alike, to ensure responsible parenthood, mutual respect, understanding and co-operation.
3. Reproductive, pre- and post-natal care should be strengthened within social and health systems.

Article 9

1. Parental leave regulations should address both mothers and fathers, since recent research discloses the important role fathers are playing in the socialization of their children. Therefore, special efforts should be made to enhance the role of fathers, thus ensuring at the same time equality between both parents.
2. Appropriate maternity leave, social and financial support should be made available to all mothers, employed or not.
3. Adequate child-care facilities should be provided in the interest of family life.

The child

Article 10

1. All children shall enjoy the same social protection and rights and be given equal opportunities to develop their full potential.
2. All children should have fair chances to grow up in a family environment. In case they are deprived of their family environment, they shall be entitled to special protection and assistance.

Harmonizing family life and work

Article 14

1. The family members and the family as a group are entitled to free time, rest and family life.
2. Policies and programmes should be developed to enable family members to harmonize activities of professional life with family life.
3. Unpaid work inside and outside the family - e.g. household activities, food production at the family level, social and voluntary work - have generally been perceived as having low economic and social prestige. All societies should place a higher value on these activities by including them in the GNP (gross national product), in official statistical data and by providing certain corresponding forms of social security.

Violence and neglect

Article 15

1. All efforts should be made to prevent violence, neglect, abuse and exploitation within the family and to raise public awareness of such hidden crimes. Legislation and other measures should be enacted and implemented in order to eradicate this violence and protect the victims.
2. The full physical and mental integrity of young girls and boys is a prerequisite to enable them to develop into mature and responsible adults. Therefore, all kinds of mutilations should be forbidden.
3. Measures should be provided by public authorities to eliminate social conditions leading to drug and alcohol addiction and to all forms of violence, such as vandalism, delinquency, aggression and crime. Help and rehabilitation should be made available to families confronted with such problems.

Family counselling

Article 16

1. All efforts should be made to establish a well organized network of family counselling services, inter alia to provide educational, psychological and social assistance.
2. Adequate training is essential for those who may become responsible for family counselling.
3. Even though the courts of justice should be the ultimate recourse for legal aid, it is indispensable that the magistrates of these courts are also adequately trained.

3. Whenever a legal guardian or tutor needs to be established for a family member, legal authorities should consider the eligibility of another member of the same family as a matter of priority.

Responsibilities of parents

Article 11

1. Parents share the primary responsibility for bringing up their children and providing them with an adequate standard of living.
2. The right and responsibility of parents to provide guidance appropriate to the child's evolving capacities should be respected, without infringing on the child's right to freedom of thought, conscience and expression.

Education

Article 12

1. The family shall respect and foster the right of each of its members, especially girls and women, to receive formal education and continuous education. This education shall be free and compulsory at least in the elementary and fundamental stages.
2. Young people of both sexes should receive special preparation for responsible family and sexual life and parenthood as well as adequate education for managing the resources necessary for everyday life.
3. Parents have the responsibility to continuously educate and improve themselves and to instill in their children the values of mutual respect and understanding and a sense of responsibility for the environment and sustainable development. In this they should be supported by the educational system, the media and other networks.

Intra-family relations and roles

Article 13

1. To be a member of a family implies communication and solidarity with other family members and mutual responsibility. Within the family unit, joint decision-making should be encouraged. The more-able members should endeavour to support the less-able ones, when these are impaired by age, infirmity or other forms of hardship.
2. Full development of each individual family member is necessary for the exercise of his/her rights and responsibilities within and outside the family, as well as for the family's welfare.
3. Major attention should be given to equal rights and equal responsibilities for men and women within the family, including equitable sharing of roles and tasks in the household.

Consumer protection

Article 17

All legal measures or policies should be adopted to protect the family against unsafe and unhealthy goods, mislabelling and unethical and exploitative marketing practices.

Tax liability

Article 18

Any tax system should encourage family solidarity and help to ensure the family's minimum standard of living.

Association and participation

Article 19

The Declaration of Human Rights entitles individuals to create associations. Hence, families are entitled to establish associations and enjoy freedom of public and private assembly.

Mass communications media

Article 20

Given the great potential of the mass-media as a vehicle for social change, every effort should be made to have the media exercise a positive, educative and respectful attitude regarding the family and family life.

Peace and security

Article 21

1. Peace and security are a prerequisite for a healthy environment, sustainable development and for social and economic progress for the benefit of all and particularly the family.
2. To this end, resources should be progressively channelled from military to social programmes.
3. All feasible measures shall be taken to ensure that persons below the age of 18 do not take a direct part in armed conflicts.

ANNEX

SOME OF THE UNITED NATIONS DOCUMENTS REVIEWED

- Universal Declaration of Human Rights (General Assembly Resolution 217 A <III>)
- Declaration of the Rights of the Child (General Assembly Resolution 1386 <XVI>)
- Declaration on the Elimination of all Forms of Racial Discrimination
- International Covenant on Economic, Social and Cultural Rights (General Assembly Resolution 2200 A<XXI>)
- International Covenant on Civil and Political Rights (General Assembly Resolution 2200 A<XXI>)
- Optional Protocols on the International Covenants
- Declaration on the Elimination of Discrimination against Women (General Assembly Resolution 2263 A<XXII>)
- Proclamation of Teheran on Human Rights (General Assembly Resolution 2081 A<XX>)
- Declaration of Social Progress and Development (General Assembly Resolution 2542 A<XXIV>)
- Report of the United Nations World Population Conference, 1974, Bucharest (E/Conf. 60/19)
- Report on the International Conference on Population, Mexico City 1984 (A/Conf.76/19)
- The Proclamation of the International Year of the Child (General Assembly Resolution 31/169)
- Strengthening Developmental Social Welfare and Programmes (ECOSOC 1979/18-1981/20)
- Welfare of Migrant Workers and their Families (ECOSOC, 1979/12)
- The Proclamation of the International Youth Year (General Assembly Resolution 34/151)
- Vienna International Plan of Action on Aging (World Assembly on Aging Vienna 1981/ECOSOC)
- The World Programme of Action concerning Disabled Persons (General Assembly Resolution 37/52)
- Universal Declaration on the Eradication of Hunger and Malnutrition (General Assembly Resolution 3348)
- Convention on the Elimination of all Forms of Discrimination against Women (General Assembly Resolution 34/180)
- The Nairobi Forward Looking strategies for the Advancement of Women (General Assembly Resolution 40/108)
- The Role of the Family in the Development Process (1983/23, 14th Plenary Session)
- Domestic Violence (4036), General Assembly)
- World Social Situation including the elimination of all major social obstacles (1989 Report on the World Situation, Commission for Social Development, Vienna-E/CN.5/1989/2)
- Convention on the Rights of the Child (Resolution 44/25 of 5th December 1989 General Assembly)

